of intoxicating liquors in all Government buidings, etc.—to the Committee on Alcoholic Liquor Traffic.

Also, resolution of the Board of Commerce of Norwalk, Ohio, asking for appropriate legislation for the Territory of Alaska—to the Committee on the Territories.

By Mr. SPERRY: Petition of retail druggists of Guilford, Conn., urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. WILEY: Petitions of E. G. Fowler, of Montgomery, and William Loyd, of Pineapple, Ala., urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. WILLIAMS of Illinois: Paper to accompany House bill granting a pension to Mastin W. Bond—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, *January 27, 1903.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

LEGISLATIVE JOURNAL OF HAWAII.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting a copy of the journal of the senate of the second legislative assembly of the Territory of Hawaii in special session begun on the 20th day of November, 1902, and concluded on the 6th day of December, 1902; which was ordered to be printed, and, with the accompanying document, referred to the Committee on Pacific Islands and Porto Rico.

PUGET SOUND AND LAKES WASHINGTON AND UNION CANAL.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers. The attention of the Senator from Washington [Mr. TURNER] is called to the communication, which is in response to a resolution submitted by him a few days ago. The communication from the Chief of Engineers will be read.

The Secretary read as follows:

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, January 23, 1903.

Hon. ELIHU ROOT, *Secretary of War.*

SIR: I have the honor to return herewith a resolution of the Senate of the United States, dated January 21, 1903, directing the Secretary of War to transmit to the Senate the report of the Board of Engineers constituted to determine the feasibility of constructing a canal connecting Puget Sound with Lakes Washington and Union.

The river and harbor act of June 13, 1902, required the appointment of a Board of Engineers to consider the aforesaid subject, and directs that the report of such board shall be submitted to Congress at the present session.

The report of the board was received in this office a few days ago, and it is the intention to send it to Congress, as required by the law, just as soon as it can be properly examined and prepared for printing. The report is voluminous and it is essential that it be given careful consideration before submission to Congress. It is probable that it can be submitted to the Secretary of War within a few days.

Very respectfully, your obedient servant,

G. L. GILLESPIE,
Brigadier-General, Chief of Engineers, U. S. Army.

Mr. TURNER. I move that the communication and accompanying letter from the Chief of Engineers lie on the table.

The motion was agreed to.

CREDENTIALS.

Mr. DUBOIS presented the credentials of Weldon B. Heyburn, chosen by the legislature of the State of Idaho a Senator from that State for the term beginning March 4, 1903; which were read and ordered to be filed.

Mr. MCCUMBER presented the credentials of HENRY CLAY HANSBROUGH, chosen by the legislature of the State of North Dakota a Senator from that State for the term beginning March 4, 1903; which were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 1592) for the relief of F. M. Vowells.

The message also announced that the House had passed with amendments the following bills in which it requested the concurrence of the Senate:

A bill (S. 3243) to redeem certain outstanding certificates of the board of audit of the District of Columbia; and

A bill (S. 4221) authorizing the Commissioners of the District of Columbia to extinguish a portion of an alley in square 189.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 13630) to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes;

A bill (H. R. 13781) to quitclaim all interest of the United States of America in and to square 1131 in the city of Washington, D. C., to Sidney Bieber;

A bill (H. R. 14899) to amend an act entitled "An act to incorporate the National Florence Crittenton Mission;"

A bill (H. R. 15799) to confirm the name of Seward square for the space formed by the intersection of C street south and Pennsylvania and North Carolina avenues, District of Columbia;

A bill (H. R. 16099) to cancel certain taxes assessed against the Kall tract; and

A bill (H. R. 16970) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1904, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President pro tempore:

A bill (S. 252) granting an increase of pension to Levi H. Peddycoard;

A bill (S. 1131) granting an increase of pension to Sydda B. Arnold;

A bill (S. 1614) granting an increase of pension to Nelson W. Carlton;

A bill (S. 1637) granting an increase of pension to Annie A. Neary;

A bill (S. 1903) granting an increase of pension to Hamline B. Williams;

A bill (S. 1978) granting an increase of pension to Wesley S. Potter;

A bill (S. 2084) granting an increase of pension to Samuel E. Ewing;

A bill (S. 2296) to amend an act approved March 2, 1895, relating to public printing;

A bill (S. 2806) granting an increase of pension to Laura S. Picking;

A bill (S. 2863) granting an increase of pension to Mary L. Purington;

A bill (S. 3238) granting a pension to Martha E. Hench;

A bill (S. 3250) granting an increase of pension to Winfield S. Pietz;

A bill (S. 3298) granting an increase of pension to William A. Gemball;

A bill (S. 3607) granting an increase of pension to Oliver P. Helton;

A bill (S. 3644) granting an increase of pension to James Mealey;

A bill (S. 3730) granting an increase of pension to Jonas Olmstead;

A bill (S. 3773) granting an increase of pension to Leroy Roberts;

A bill (S. 3940) granting an increase of pension to Eliza C. Deery;

A bill (S. 3970) granting an increase of pension to Mary E. Fales;

A bill (S. 4121) granting a pension to Elizabeth Jacobs;

A bill (S. 4296) granting a pension to Andrew Ady;

A bill (S. 4332) granting an increase of pension to Mary B. Heddelson;

A bill (S. 4401) granting an increase of pension to Frederick Kropf;

A bill (S. 4412) granting an increase of pension to John J. Rees;

A bill (S. 4515) granting an increase of pension to Alfred O. Blood;

A bill (S. 4827) granting an increase of pension to George W. Stott;

A bill (S. 5244) granting an increase of pension to William H. Maxwell;

A bill (S. 5280) granting a pension to Dollie Casens;

A bill (S. 5352) granting an increase of pension to William Flinn;

A bill (S. 5355) granting an increase of pension to George A. King;

A bill (S. 5412) granting an increase of pension to Henry E. Spring;

A bill (S. 5642) granting an increase of pension to Nicholas Smith;

A bill (S. 5976) granting an increase of pension to Melton Frazier;

A bill (S. 6071) granting an increase of pension to Mary Manes;
A bill (S. 6155) granting an increase of pension to William Markle;
A bill (S. 6182) granting an increase of pension to Lela L. Egbert;
A bill (S. 6257) granting an increase of pension to Mary B. Keller;
A bill (S. 6361) granting a pension to Emma Dean Powell;
A bill (S. 6467) granting an increase of pension to Sarah E. Ropes;
A bill (S. 6492) granting an increase of pension to Thomas Starrat;
A bill (S. 6514) granting an increase of pension to Stephen J. Houston;
A bill (S. 6526) granting an increase of pension to Orin T. Fall;
A bill (S. 6543) granting an increase of pension to David G. Morgan;
A bill (S. 6614) granting an increase of pension to Bertha R. Koops;
A bill (S. 6693) granting a pension to Mary J. Ivey;
A bill (H. R. 2974) for the relief of J. V. Worley;
A bill (H. R. 6649) for the relief of Julius A. Kaiser;
A bill (H. R. 7664) providing for the compulsory attendance of witnesses before registers and receivers of the land office;
A bill (H. R. 10300) conferring jurisdiction upon the circuit and district courts for the district of South Dakota in certain cases, and for other purposes;
A bill (H. R. 10522) to provide for laying a single electric street-railway track across the Aqueduct Bridge in the District of Columbia, and for other purposes;
A bill (H. R. 14518) granting an increase of pension to James D. Kiper;
A bill (H. R. 15066) to incorporate the Association of Military Surgeons of the United States;
A bill (H. R. 15510) to promote the efficiency of the Philippine constabulary, to establish the rank and pay of its commanding officers, and for other purposes;
A bill (H. R. 15708) to extend the time for the completion of the incline railway on West Mountain, Hot Springs Reservation; and
A joint resolution (H. J. Res. 16) to carry into effect two resolutions of the Continental Congress directing monuments to be erected to the memory of Gens. Francis Nash and William Lee Davidson, of North Carolina.

PETITIONS AND MEMORIALS.

Mr. FOSTER of Washington presented a memorial of sundry citizens of Tekoa, Wash., and a memorial of sundry citizens of Colfax, Wash., remonstrating against the repeal of the desert-land law and the commutation clause of the homestead act; which were referred to the Committee on Public Lands.

He also presented a memorial of the Womans' Christian Temperance Union of Tenino, Wash., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a petition of the Woman's Christian Temperance Union of Tenino, Wash., praying for the enactment of legislation to prohibit the sale of intoxicating liquors, opium, tobacco, and firearms to the "child races" of the earth; which was ordered to lie on the table.

He also presented a petition of Local Union No. 244, American Federation of Labor, of Seattle, Wash., praying for the passage of the so-called eight-hour bill; which was ordered to lie on the table.

Mr. SCOTT presented a petition of Elkhorn Lodge, No. 304, Order of B'rith Abraham, of Keystone, W. Va., praying for the enactment of legislation to modify the methods and practice employed by the immigration officers at the port of New York; which was referred to the Committee on Immigration.

Mr. RAWLINS presented a petition of sundry citizens of Utah, praying for the enactment of legislation providing for the opening to entry of the asphaltum lands in the Uncompahgre Indian Reservation; which was referred to the Committee on Public Lands.

Mr. KEAN presented a petition of Carpenters and Joiners' Local Union, No. 325, American Federation of Labor, of Paterson, N. J., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

He also presented the petition of Rev. J. L. Stoddard, of Jersey City, N. J., praying for the enactment of legislation to recognize and promote the efficiency of chaplains in the Army; which was referred to the Committee on Military Affairs.

He also presented a petition of the Organized Aid Association, of Plainfield, N. J., praying for the enactment of legislation to restrict immigration; which was ordered to lie on the table.

He also presented a petition of Lodge No. 130, Order of B'rith Abraham, of Bayonne, N. J., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which was referred to the Committee on Immigration.

He also presented memorials of J. A. Cornwall, of Vineland; of John Pennison, of Vineland; of David D. Ackerman, of Gloster; of L. F. Babcock, of Vineland; of the congregation of the First Methodist Episcopal Church of Vineland; of Walton B. Leeds, of Moorestown; of J. B. Hayes, of Moorestown; of Alfred W. Leeds, of Moorestown; of Hugh Graham, of Kearney; of G. A. Mitchell, of Vineland; of James A. Wood, of Vineland; of W. P. Lyzott, of Vineland; of H. F. Henderson, of Vineland; of the Woman's Christian Temperance Union of Point Pleasant, and of sundry citizens of Harrison, all in the State of New Jersey, remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

He also presented a petition of Carpenters and Joiners' Local Union, No. 429, American Federation of Labor, of Montclair, N. J., praying for the passage of the so-called eight-hour bill; which was ordered to lie on the table.

He also presented memorials of the Trent Tile Company, of Trenton; of the Joseph Campbell Preserve Company, of Camden, and of James R. Sayre, jr., & Co., of Newark, all in the State of New Jersey, remonstrating against the passage of the so-called eight-hour bill; which were ordered to lie on the table.

He also presented the petition of John Lucas & Co., of Philadelphia, Pa., praying for the adoption of certain amendments to the so-called pure-food bill; which was ordered to lie on the table.

Mr. CLAY presented a petition of Kadisha Lodge, No. 216, Order of B'rith Abraham, of Atlanta, Ga., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which was referred to the Committee on Immigration.

Mr. DRYDEN presented memorials of the congregation of the Baptist Church of Jacobstown; of the congregation of the First Presbyterian Church of Vineland; of W. H. Bateman, of Cedarville; of W. J. Hamilton, of Dunellen; of J. H. Turney, of Vineland, and of Clarence E. Lush, of Vineland, all in the State of New Jersey, remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

Mr. CULLOM presented petitions of Carpenters and Joiners' Local Union No. 174, of Joliet; of Local Union No. 584, of Chicago; of Local Union No. 2, of Chicago; of Local Union No. 3, of Chicago; of Local Union No. 8, of Chicago, and of the Trades and Labor Assembly of Ottawa, all of the American Federation of Labor, in the State of Illinois, praying for the repeal of the desert-land law and the commutation clause of the homestead act; which were referred to the Committee on Public Lands.

He also presented petitions of Local Union No. 465, of Ottawa; of Local Union No. 705, of O'Fallon; of Local Union No. 264, of South Chicago; of Local Union No. 110, of West Chicago; of the Trades and Labor Council, of Lasalle; of Carpenters and Joiners' Local Union No. 241, of Moline, and of Local Union, No. 141, of Carbondale, all of the American Federation of Labor, and of the Industrial Home Association of Moline, all in the State of Illinois, praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

Mr. CLAPP presented a petition of sundry citizens of St. Paul and Minneapolis, in the State of Minnesota, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Government buildings; which was referred to the Committee on Public Buildings and Grounds.

Mr. PERKINS presented a petition of Carpenters and Joiners' Local Union No. 766, American Federation of Labor, of San Francisco, Cal., and a petition of Cooks' Helpers Alliance No. 110, American Federation of Labor, of San Francisco, Cal., praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

Mr. PROCTOR presented a memorial of the Woman's Christian Temperance Union of Peacham, Vt., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a petition of Local Union No. 683, United Brotherhood of Carpenters and Joiners, of Burlington, Vt., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

He also presented the petition of C. W. Cook, of West Glover, Vt., and 20 other soldiers of the war of the rebellion, from the State of Vermont, praying for the enactment of legislation providing for the care and protection of the Union monuments on the Bull Run battlefield now standing on private ground; which was referred to the Committee on Military Affairs.

Mr. PLATT of Connecticut presented a petition of sundry citizens of Bridgeport, Conn., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Bridgeport, Conn., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a petition of sundry citizens of Bridgeport, Conn., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in immigrant stations; which was ordered to lie on the table.

He also presented the petition of Rev. W. F. Arms, of Essex, Conn., and a petition of sundry citizens of Bridgeport, Conn., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

Mr. BEVERIDGE presented a petition of Local Union No. 7, American Federation of Labor, of Muncie, Ind., and a petition of Local Union No. 240, American Federation of Labor, of Lafayette, Ind., praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

STATEHOOD BILL.

Mr. BEVERIDGE. Mr. President, I present a petition and ask that it be read.

The PRESIDENT pro tempore. The Senator from Indiana presents a petition, which he asks may be read. Is there objection? The Chair hears none, and the Secretary will read the petition.

The Secretary read as follows:

BRISTOW, IND. T., *January 3, 1903.*

To Senator BEVERIDGE,
Washington, D. C.

HONORABLE SIR: At a meeting of the citizens and commercial club of the town of Bristow the following resolutions were adopted and ordered forwarded to your address in Washington.

Yours, very respectfully, H. F. JOHNSON.

BRISTOW COMMERCIAL CLUB ROOMS.

Whereas there is now pending in the United States Senate many bills for the relief of the present intolerable conditions now existing in the Indian Territory, looking to the relief of 500,000 loyal American citizens from the inadequacy and insufficient mode of our present form of government; looking to the establishment of a sufficient and very necessary public-school system, of which we are at present wholly without, leaving 100,000 American children to grow up in ignorance and crime, to the detriment of our republican institutions and the foundation of our Government; looking to the proper care and handling of the Indian question, the wards of our Government, to whom we owe a solemn duty to protect and educate, that they may ultimately be able to cope with intelligent and an able people, that they may become self-sustaining and able to care for their own heritage against the ravages, greed, and encroachment of designing persons; and last, but not least, looking to the creation out of a most fertile and productive land of a sovereign and indestructible State, whose people are now worthy of sisterhood in the Union of these grand commonwealths, and amid whose firmament her brightness would never be dimmed by disloyalty, and on whose escutcheon there will be permanently inscribed "Liberty, justice, equality;" and

Whereas the omnibus bill now pending in the Senate seeks by want of legislation to leave us in our now destitute condition, and provides nothing for our urgent needs and wants; and

Whereas the substitute known as the Nelson bill entirely covers the ground and gives us a voice in the framing of a government under which we and our posterity are to live, a right and privilege every American citizen demands and is entitled to under our Constitution and his birthright: Therefore, be it

Resolved, That we are unqualifiedly and unconditionally opposed to the passage of the omnibus bill or any kindred legislation, but ask and demand that the Nelson bill or Beveridge substitute be passed and made a law, to the end that we may become one grand State, united with and on an equal footing with our sister Territory, Oklahoma.

Thus done, passed, and adopted by the Citizens' and Commercial Club of the town of Bristow this 3d day of January, 1903.

H. F. JOHNSON, *Chairman.*
J. W. OVERSTREET, *Acting Secretary.*

The PRESIDENT pro tempore. The petition will lie on the table.

Mr. BEVERIDGE. Mr. President, I have a very large number of other resolutions, not perhaps so well or succinctly put, but to the same purport as the resolution I have asked to have read and which has been read to the Senate. Of course I do not intend to address the Senate or to read them this morning, and perhaps I shall not read them at all; but I could not refrain at this juncture from asking the Senate to listen to this very remarkable resolution of these citizens, which rings with a note of uncommon sincerity, and puts before the Senate not only their desires as citizens, but the wants of their children in the way of preparation for future citizenship.

At some future time, Mr. President, I may introduce further resolutions showing what are the desires of those people and the very unusual and pressing reasons upon which they are based.

Mr. ALDRICH. Mr. President, I rise to a question of order. The matter has passed from the consideration of the Senate, but I desire to call the attention of the Presiding Officer and of the Senate to the rule of the Senate which requires that all petitions shall be presented and referred without debate. The custom has grown up of discussing bills which are before the Senate at other times and in the morning hour to the exclusion of other business of the Senate, and I desire to give notice that hereafter I shall object to any discussion of that kind.

There is another clause of the rules, which undoubtedly has escaped the attention of Senators, that it is not permissible to read an entire petition, but that its contents must be succinctly stated.

Mr. BEVERIDGE. Mr. President, in response to the Senator's point of order, I desire to say that the petition was read by unanimous consent; and with reference to addressing the Senate upon the petition, in so far as I did so, it was done in pursuance of a practice the precedent for which has been set by venerable Senators within this body at the present session.

Mr. QUAY. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator from Pennsylvania will state his point of order.

Mr. QUAY. My point of order is that discussion is out of order.

Mr. BEVERIDGE. I distinctly stated that I did not intend to address the Senate.

REPORTS OF COMMITTEES.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6973) authorizing the city of Nome, a municipal corporation, organized and existing under chapter 21, title 3, of an act of Congress approved June 6, 1900, entitled "An act making further provision for a civil government for Alaska, and for other purposes," to construct a free bridge across the Snake River at Nome City, in the Territory of Alaska, to report it with amendments and to submit a report thereon. I call the attention of the Senator from Washington [Mr. TURNER] to it.

Mr. TURNER. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. The bill will be read in full to the Senate.

Mr. QUAY. What is the bill?

Mr. BERRY. It is a bill to build a bridge at Nome.

The Secretary read the bill.

Mr. ALDRICH. I think the routine morning business should be disposed of before any bills are passed. I therefore object to the consideration of the bill.

The PRESIDENT pro tempore. The Senator from Rhode Island objects. The bill will be placed on the Calendar.

Mr. BERRY. I am also directed by the Committee on Commerce, to whom was referred the bill (S. 7004) to extend the time for the completion of a bridge across the Missouri River, to report it without amendment and to submit a report thereon. I call the attention of the Senator from South Dakota [Mr. GAMBLE] to the bill.

Mr. CARMACK, from the Committee on Pensions, to whom was referred the bill (S. 5929) granting a pension to Margaret J. McCranie, reported it with an amendment, and submitted a report thereon.

Mr. GALLINGER (for Mr. CLARK of Montana), from the Committee on the District of Columbia, to whom was referred the bill (S. 6515) to exempt from taxation certain property of the Daughters of the American Revolution in Washington, D. C., reported it without amendment, and submitted a report thereon.

Mr. BARD, from the Committee on Fisheries, to whom was referred the bill (S. 6147) to establish a fish-hatching and fish station in the State of Indiana, reported it without amendment, and submitted a report thereon.

Mr. SIMON, from the Committee on the Judiciary, to whom was referred the bill (S. 6032) to establish a laboratory for the study of the criminal, pauper, and defective classes, reported it with an amendment, and submitted a report thereon.

Mr. DEBOE, from the Committee on Pensions, to whom was referred the bill (H. R. 6161) granting an increase of pension to Homer Davis, reported it without amendment, and submitted a report thereon.

He also (for Mr. PRITCHARD), from the same committee, to whom was referred the bill (H. R. 305) granting an increase of pension to George Heinzman, reported it without amendment, and submitted a report thereon.

Mr. BURTON, from the Committee on Pensions, to whom was referred the bill (S. 5993) granting an increase of pension to James G. Davis, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 6394) granting a pension to Mrs. Evart Ewing Munn, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 4118) granting a pension to Charles Maschmeyer, reported it without amendment, and submitted a report thereon.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (H. R. 10672) granting a pension to Ada S. Kempfer, reported it with amendments, and submitted a report thereon.

Mr. ALDRICH. I am directed by a majority of the Committee on Finance, to whom was referred the bill (H. R. 12704) to increase the subsidiary silver coinage, to report it with an amendment. The bill has not the approval of the minority of the committee.

Mr. JONES of Arkansas. I rose to say that the minority of the committee are opposed to this bill.

The PRESIDENT pro tempore. The bill will be placed upon the Calendar.

Mr. CLAPP, from the Committee on Interstate Commerce, to whom was referred the bill (S. 7053) to further regulate commerce with foreign nations and among the States, reported it with amendments, and submitted a report thereon.

REPORT OF COMMISSIONER OF EDUCATION FOR PORTO RICO.

Mr. PLATT of New York, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. FORAKER on the 21st instant, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed, as it originally appeared in the report of the Secretary of the Interior of the United States, but with the addition of 50 full-page illustrations, 7,000 copies of the report of the commissioner of education for Porto Rico, of which 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, 2,500 for the use of the Commissioner of Education of the United States, and 1,500 for the use of the commissioner of education for Porto Rico.

REVISED CODE OF DISTRICT OF COLUMBIA.

Mr. PLATT of New York, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. DILLINGHAM on the 5th instant, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That 2,500 copies of the revised code of law of the District of Columbia be printed and bound, 500 copies for the use of the Senate, 1,000 for the use of the House of Representatives, and 1,000 for sale by the superintendent of documents.

REPORT ON ALASKAN SALMON FISHERIES.

Mr. PLATT of New York. I desire to call up for consideration the resolution to print the report of the special agent of the Treasury Department on the salmon fisheries of Alaska for 1902, which was reported by me yesterday from the Committee on Printing and objected to by the Senator from Pennsylvania [Mr. QUAY].

Mr. QUAY. What is the request of the Senator from New York?

The PRESIDENT pro tempore. It is the report the Senator from New York made on yesterday. He desires present consideration.

The Secretary read the resolution, which had been submitted by Mr. BARD on the 23d instant, as follows:

Resolved, That the report of Howard M. Kutchin, special agent of the Treasury Department, on the Salmon Fisheries of Alaska, for 1902, be printed, and that 750 additional copies be printed and bound in paper covers for the use of the Treasury Department.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

BILLS INTRODUCED.

Mr. BLACKBURN introduced a bill (S. 7146) for the reference of the claims of certain volunteer soldiers to the Court of Claims; which was read twice by its title, and referred to the Committee on Claims.

Mr. BERRY introduced a bill (S. 7147) for the relief of S. H. Wren; which was read twice by its title, and referred to the Committee on Claims.

Mr. ALGER introduced a bill (S. 7148) replacing burned buildings at Fort Brady, Mich.; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PENROSE introduced a bill (S. 7149) to grant and an honorable discharge from the military service to Joseph W. Myers; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

He also introduced a bill (S. 7150) to purchase the McLean property and other property at Appomattox, in the State of Virginia; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 7151) to amend section 4921 of the Revised Statutes, relating to preliminary injunctions in patent cases; which was read twice by its title, and referred to the Committee on Patents.

He also introduced a bill (S. 7152) to amend an act entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved June 13, 1902; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CLAPP (by request) introduced a bill (S. 7153) to authorize any citizen or citizens of the Cherokee Nation by blood to bring suit against the said nation to determine all the rights of intermarried persons in the common property of the nation, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. McCOMAS introduced a bill (S. 7154) granting an increase of pension to Charles H. Boone; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 7155) to amend an act entitled "An act to establish a code of law for the District of Columbia;" which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. FORAKER submitted an amendment relating to the appointment of native citizens of Porto Rico to the United States Naval Academy, intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also submitted an amendment relating to the appointment of native citizens of Porto Rico to the United States Military Academy, intended to be proposed by him to the Military Academy appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. McCOMAS submitted an amendment proposing to appropriate $500 to pay William S. Torbert for the preparation of an index to the code of the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

SPANISH-AMERICAN WAR VETERANS' ASSOCIATION.

Mr. PENROSE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed for the use of the Senate 500 copies of S. 6899, to incorporate the Spanish-American War Veterans' Association of the United States.

COURTS-MARTIAL IN THE PHILIPPINES.

Mr. RAWLINS. I offer a resolution and ask for its present consideration.

The resolution was read, as follows:

Be it resolved by the Senate, That the Secretary of War is hereby directed to inform the Senate what courts-martial have been ordered and held in the Philippine Islands, and what judgments rendered by them in consequence of the dispatch sent by the Secretary of War to Major-General Chaffee referred to in the memorandum of the Secretary of War for the Adjutant-General under date of April 15, 1902; also what action was taken by the President or the Secretary of War on the judgment of any court-martial so ordered, either approving or disapproving the same.

Also, that the records in full of the several following courts-martial ordered and held in the Philippine Islands be communicated, to wit:

That on Brig. Gen. Jacob H. Smith.
That on Maj. Edwin F. Glenn, Fifth Infantry.
That on Lieut. Edwin A. Hickman, First Cavalry.
That on Lieut. J. H. A. Day, Marine Corps.
That on Maj. L. W. T. Waller, of the Marine Corps.
That on Lieut. Preston Brown, Second Infantry.
That on Capt. James A. Ryan, Fifteenth Cavalry.
That on Lieut. —— Cooke.
That on Lieut. Julian E. Gaiyot.
That on Lieut. N. E. Cook, of the Philippine Scouts.
That on Lieut. W. S. Sinclair, battalion adjutant, Twenty-eight Infantry.

Also any record or reports of investigations which may be on file in the War Department relating to the case of the so-called "Father Augustine," alleged to have been put to death by Cornelius M. Brownell, formerly a captain of the Twenty-sixth Volunteer Infantry, at Banate, island of Panay, province of Iloilo, in December, 1900, also any investigations made by the Department of Justice into the facts of such case, together with any legal conclusions reached thereon and reported to the War Department.

Mr. LODGE. That is a very long resolution, asking for many documents. I should like to examine it. Let it go over.

The PRESIDENT pro tempore. The resolution will go over under the rule.

ISLE OF PINES.

Mr. CARMACK. I offer a resolution, and ask for its present consideration.

The resolution was read, as follows:

Resolved by the Senate of the United States, That the President of the United States be requested to inform the Senate whether the Government of the Republic of Cuba is exercising right of sovereignty and control over the Isle of Pines, and whether any, and if so, what, instructions have been given for the transfer of said island from the control of the authorities of the United States to those of the Republic of Cuba, and what steps, if any, have been taken to protect the interests of such citizens of the United States as have purchased property and settled in the Isle of Pines believing that it was subject to the sovereignty of the United States.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. ALDRICH. Let the resolution go over.

Mr. PLATT of Connecticut. Let it go over.

The PRESIDENT pro tempore. The resolution will go over under the rule.

Mr. CARMACK. I ask that the resolution I offered be referred to the Committee on Relations with Cuba.

Mr. ALDRICH. I should like to see it in print first. I asked that it might go over.

The PRESIDENT pro tempore. Objection was made, and the resolution went over under the rule.

Mr. CARMACK. In this connection, I present a petition of sundry residents and property owners of the Isle of Pines, relative to the sovereignty and control over that island of the Republic of Cuba. I move that the petition be printed as a document and referred to the Committee on Relations with Cuba.

The motion was agreed to.

COMMITTEE ON RELATIONS WITH CUBA.

Mr. PLATT of Connecticut submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Relations with Cuba be, and it is hereby, authorized to employ an assistant clerk at an annual salary of $1,200, to be paid from the contingent fund of the Senate until otherwise provided for by law.

PANAMA CANAL AND PANAMA RAILROAD.

Mr. TURNER. As the morning business now seems to be concluded, I again ask unanimous consent for the present consideration of Senate bill 6973.

Mr. QUAY. I object for the present, until I can make a motion to take up the statehood bill. I will then yield. I move that the Senate proceed with the consideration of the omnibus statehood bill.

The PRESIDENT pro tempore. The Chair is obliged to lay before the Senate—if the Senator from Pennsylvania will pardon the Chair for one moment—a resolution coming over from a previous day. The resolution will be read.

The Secretary read the resolution submitted yesterday by Mr. MORGAN, as follows:

Resolved, That there be printed for the use of the Senate, as a separate document, the papers included in appendices 1 and 2 to a statement of Col. O. H. Ernst, made to the chairman of the Senate Committee on Interoceanic Canals on June 14, 1900, setting forth certain concessions and laws of Colombia relating to the Panama Canal and the Panama Railroad, which statement was reported to the Senate by said committee on December 12, 1901, on pages 244 to 270, inclusive, of Report No. 1, Fifty-seventh Congress, first session.

2. *Resolved*, That the treaty between the United States and Colombia signed on the 22d of January, 1903, and sent to the Senate, be printed in bill form for the use of the Senate.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

Mr. CULLOM. While I do not believe that it is necessary to reprint the documents referred to or to publish the treaty in bill form, yet I see no particular objection to the resolution.

The resolution was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. 13630) to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes;

A bill (H. R. 13791) to quitclaim all interest of the United States of America in and to square 1131 in the city of Washington, D. C., to Sidney Bieber;

A bill (H. R. 14899) to amend an act entitled "An act to incorporate The National Florence Crittenton Mission."

A bill (H. R. 15799) to confirm the name of Seward square for the space formed by the intersection of C street south and Pennsylvania and North Carolina avenues, District of Columbia; and

A bill (H. R. 16099) to cancel certain taxes assessed against the Kall tract.

The bill (H. R. 16970) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1904, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. QUAY. I move that the Senate proceed to the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

Mr. ALDRICH. Mr. President, I rise to a question of order.

The PRESIDENT pro tempore. The Senator from Rhode Island will state his question of order.

Mr. ALDRICH. It is that the motion made by the Senator from Pennsylvania can not be entertained except by unanimous consent at this time, and I interpose an objection and call the attention of the Chair to the rule.

The PRESIDENT pro tempore. Rule VII?

Mr. ALDRICH. The second clause of Rule VII.

The PRESIDENT pro tempore. Will the Senator read Rule VII?

Mr. ALDRICH (reading):

Until the morning business shall have been concluded, and so announced from the Chair, or until the hour of 1 o'clock has arrived, no motion to proceed to the consideration of any bill, resolution, report of a committee, or other subject upon the Calendar shall be entertained by the Presiding Officer, unless by unanimous consent.

Mr. QUAY. That is in the alternative. The first alternative has been arrived at already, because the morning business has been concluded.

Mr. ALDRICH. The first one, but not the second.

Mr. QUAY. Either the morning business must be gone through with or else the hour of 1 o'clock must have arrived.

Mr. ALDRICH. If the Chair has any question about it, I would be very glad to submit some remarks on the subject.

Mr. SCOTT. Mr. President, I should like to have the Chair rule on the point I make. On January 12 I gave notice that after the morning business on Tuesday, January 27, I would ask leave to submit some remarks on Senate joint resolution 133. I ask the Chair whether I am not entitled to the floor after the morning business is concluded?

Mr. ALDRICH. There is a point of order already pending, I suggest.

Mr. QUAY. Mr. President——

The PRESIDENT pro tempore. The Chair will hear what the Senator from Rhode Island has to say, because the inclination of the mind of the Chair is to overrule the point of order. The Chair believes that "or" is in the alternative, as the Senator from Pennsylvania suggests.

Mr. QUAY. If the Senator will yield one moment I will relieve the situation. The Senator from West Virginia has given notice that on the conclusion of the morning business to-day he will proceed to discuss the joint resolution in relation to a commission to investigate the pension laws. I withdraw my motion for the purpose of enabling the Senator from West Virginia to proceed.

Mr. ALDRICH. I shall not object to the withdrawal, although on some subsequent occasion I shall be very glad to submit some remarks upon this question, which I think is an important one in relation to the business of the Senate.

The PRESIDENT pro tempore. It is, and the Chair would be very happy to hear what the Senator has to say in relation to the point of order.

Mr. ALDRICH. However, I shall not undertake to do it now, but will allow the Senator from Pennsylvania to withdraw his motion.

The PRESIDENT pro tempore. The Senator from Pennsylvania withdraws his motion.

Mr. BEVERIDGE. The Senator from West Virginia is ready to proceed.

Mr. QUAY. I withdrew it in order that the Senator from West Virginia might proceed with his remarks.

Mr. BEVERIDGE. The Senator from Pennsylvania had given notice?

Mr. QUAY. Certainly.

BRIDGE AT NOME, ALASKA.

Mr. TURNER. I ask the Senator from West Virginia to allow me to ask unanimous consent for the consideration of the Nome bridge bill, which was reported this morning and has been already read. It will take but a moment.

Mr. SCOTT. I will yield to the Senator from Washington if the bill will not provoke discussion.

The PRESIDENT pro tempore. The Senator from Washington asks unanimous consent to proceed with the consideration of the bill reported by the Senator from Arkansas [Mr. BERRY] from the Committee on Commerce.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 6973) authorizing the city of Nome, a municipal corporation organized and existing under chapter 21, title 3, of an act of Congress approved June 6, 1900, entitled "An act making further provisions for a civil government for Alaska, and for other purposes," to construct a free bridge across the Snake River at Nome city, in the Territory of Alaska, which had been reported from the Committee on Commerce with amendments.

The first amendment was, on page 2, section 1, line 6, after the words "during the," to strike out "opening" and insert "season;" in line 8, after the word "and," to strike out "that;" in line 10, after the word "telegraph," to insert "and other;" and in the same line, after the word "purposes," to insert "and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies;" so as to make the section read:

That the city of Nome, a municipal corporation organized and existing under chapter 21, title 3, of an act of Congress approved June 6, 1900, entitled "An act making further provisions for a civil government for Alaska, and for other purposes," is hereby authorized and empowered to construct, operate, and maintain a free bridge across the Snake River, to be located at such point within the corporate limits of the city of Nome, in said Territory of Alaska, as shall be approved by the Secretary of War: *Provided*, That such bridge shall be constructed as a drawbridge, and the draw shall be

opened promptly upon reasonable signal for the passage of boats. And whatever kind of bridge is constructed, the city of Nome shall maintain thereon at its own expense from sunset to sunrise, during the season of navigation, such lights or other signals as the Light-House Board shall prescribe, and the United States shall have the right of way across said bridge and approaches for postal telegraph and other purposes, and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and said bridge shall be so constructed and operated as not to interfere with the navigation of said river.

The amendment was agreed to.

The next amendment was, on page 3, section 2, line 5, after the word "construction," to insert "or after completion;" so as to read:

And should any change be made in the plan of said bridge during the progress of construction or after completion, such change shall be subject to the approval of the Secretary of War; and any changes in said bridge which the Secretary of War may at any time deem necessary and order in the interests of navigation shall be made by the city of Nome at its own expense.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the act (S. 6216) to pay in part judgments rendered under an act of the legislative assembly of the Territory of Hawaii for property destroyed in suppressing the bubonic plague in said Territory in 1899 and 1900, and authorizing the Territory of Hawaii to issue bonds for the payment of the remaining claims.

COMMISSION TO INVESTIGATE PENSION LAWS.

Mr. SCOTT. Mr. President, I ask to have read at the desk the joint resolution (S. R. 133) creating a commission to investigate the present pension laws, which I introduced on the 3d day of December last, upon which I desire to address the Senate.

The PRESIDENT pro tempore. The joint resolution will be read.

The Secretary read the joint resolution, as follows:

Resolved by the Senate and House of Representatives, etc., That a commission consisting of three members of the House of Representatives, to be appointed by the Speaker, and two members of the Senate, to be appointed by the President of the Senate, is hereby created to examine into the present pension laws and report any changes that may be desirable therein; and, further, to investigate the desirability of pensioning all soldiers who served ninety days during the war of the rebellion, were honorably discharged, make application, and have reached the age of 62 years, at the rate of $12 per month.

Said commission is authorized to employ a clerk and stenographer and such other clerical assistance as may be necessary, said stenographer and clerks to be paid such compensation as the said commission may deem just and reasonable.

Said commission shall, on or before February 1, 1904, make report to Congress, which report shall embrace the conclusions reached by said commission on the subjects and laws examined, and any recommendations said commission may see proper to make, by bill or otherwise, respecting said laws.

Any vacancy occurring in the membership of said commission, by resignation or otherwise, shall be filled by the presiding officer of the Senate or House, respectively, according as the vacancy occurs in the Senate or House representation on said commission.

The sum of $5,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the necessary expenses of said commission, such payments to be made on the certificate of the chairman of said commission.

Mr. SCOTT. Mr. President, in rising to speak to the resolution which I offered on December 3, 1902, and which has just been read, I realize that, at first blush, the feeling of partisanship, or, perchance, sectionalism, may be aroused from its slumber. I trust, however, that the real motive and true sentiment of the resolution will find its lodgment, for it is one of patriotism and not sectionalism.

The strength and stability of the Republic depend upon the zeal and patriotism of its citizen soldiers. This was the source of defense relied upon by the founders of our Government after the experience of the Revolution. With marvelous judgment the fathers saw that the defense of the Republic must be vested in all of its citizens, and not in a standing army. To this end a law was enacted making every able-bodied male between the ages of 18 and 45 liable to service in the militia of the several States.

It was the intention of the founders to intrust the defense of the nation to a body of well-trained citizen soldiers, who would spring to arms at the first approach of danger. The plan was one of mutual self-defense.

Instead of a standing army which should be maintained at a heavy expense to the people, the founders wisely decided to reward the soldiers who risked their lives, their health, and their future prospects in the defense of the Republic by appropriate pensions and certain emoluments. They adopted the plan of community of interests. The people were expected to pay the soldiers while in active service, and to maintain them when incapacitated by military service and unable to earn a livelihood. This plan is manifested by a series of laws extending from the early days of the Republic to the present time.

Mr. President, I realize again that in this rapid-transit age, in this era of commercialism, when the wheels of industry sparkle with their rapid revolution, it is hard for those charged with the ship's destiny to steer from breakers, lashed by so strong a current, and anchor for a moment on the crest of patriotism. It is well to listen to the still, small voice that says to us, "It is not all of life to live," if, in living, the nobler and sweeter sentiments are to be blasted by the cold winds of greed, or the flowers to fade by the winter's wind of avarice.

I beg to assure you, Mr. President, that I am moved by memories that are sacred to me, memories of bygone days, memories born amid scenes of carnage and strife, and, standing here beneath the shadow of this noble structure, every stone of which represents a human sacrifice, whose lofty dome as it rises to meet the sun in its coming speaks for those whose voices are hushed in the silent chambers of the dead, to ask this people, whose country, whose Constitution, and whose flag live by their heroism and their blood, to hear the feeble voice of a comrade speaking for those who can not be heard. Allow me to lay the hand of patriotism upon the busy wheels—hush the mad thirst of commercialism, and bid them be still, while "our brothers' blood cries out from the ground," not for vengeance, but for justice.

Deafen our ears as we may, blind our eyes as we will, and steal from our hearts their brightest jewels, the cold, stern fact stares us in the face. Demur if you will, plead as you can, and answer as you may, there is no escaping the judgment, that all we have or may have, or may hope to have, of national wealth, glory, and renown was demised to us by the will of the heroes of the civil war, a testament written in their life's blood and attested by a heroism without a parallel in all history. It is for the survivors of that gigantic struggle; it is for the godfathers of this uncrowned king, who baptized it in blood that it might be saved, that I ask that you pause, turn a moment from the busy scenes that crowd upon you, and "render unto Cæsar the things that are Cæsar's, and unto God the things that are God's." I want to adorn the ushering in of the new year with the adoption of a sentiment, justified by precedent and founded upon the highest principles of human justice and right.

I want to see my country, the "land of the free and the home of the brave," whose flag is ever unfurled to shelter the oppressed; whose great hand reached forth and touched the harp that sent the songs of liberty playing upon the waves of the Caribbean Sea; that gathered the broken fragments of the Antilles and reset them in the coronet of nations; unfurled the lone-star banner of a newborn republic, and erected the temple of human liberty upon the ruins of monarchical tyranny, whose stars now shelter the bleaching bones of her heroes from the tropical skies, be just and liberal to those who gave this arm its strength, and but for whom this giant, if at all, would be dismembered and disemboweled.

How can we, Mr. President, the beneficiaries of this glorious heritage, longer justify or excuse our seeming, if not real, ingratitude? This measure, following the precedent incident to the Mexican war, is intended to remove favoritism and to do equal justice to all alike. We turn to-day and read the aggregate of the pension roll, and rejoice that so much has been given and so many have been provided for. Divine teaching bids us "rejoice with those who do rejoice and weep with those who weep." Mr. President, I feel moved to add my tears to their tears, rather than my rejoicing to their rejoicing, for I can never rejoice so long as I feel that there is one who offered his sacrifice left wandering, uncared for, homeless, and unsheltered.

Large, Mr. President, as the roll now appears, mammoth as seems the aggregate of a nation's bounty, it is an aggregate summed from all its wars. Yet however large that roll be, it is not so large as the muster roll, and no man was summoned who was not needed, and needed at the most momentous hour, and having answered to the call that tried the souls of men, and to which call none but the true and the brave responded, they should not now be forgotten. Go, Mr. President, read the muster roll from '61 to '65, subtract from it those that sleep in the cemeteries, and then compare the remainder with the pension roll, and tell me where that vast army is.

Who cares for them? There is not one of them, perhaps, but was as brave and true a patriot as his comrades, who are now provided for. Their names have never been enrolled upon the pension list; they have been knocking, but knocking in vain. Their names are not written upon the pension roll, but they are written by their heroism upon many a battlefield. By what process of reasoning, upon what principle of justice, by what teaching of humanity shall one-half be clothed and the other naked, one-half be fed and the other hungry? They were as brave as their comrades, their sacrifices were as great, their devotion as true, and their patriotism as loyal.

It is true they returned to home and loved ones with no battle scar to testify and no hospital certificate to bear evidence, but with an honorable discharge as a heritage. Yes, let this heritage

be transmitted to posterity as an heirloom, and while a beautiful inheritance to those who are to live afterwards, it will not drive the winter's wind from the cabin of the aged sire. Mr. President, it is for those whose voices have not been heard that this resolution is intended, to remind the nation of its debt of gratitude to them, and to blaze the way for every veteran that he may find shelter in the home he saved, and that he shall no longer ask for bread and receive a stone.

We, Mr. President, love to boast of the greatness of our country. We write its praises and sing its glories, unmindful of the hands, now withered with age, once crimsoned with blood; of shoulders, now stooped, that once carried the knapsack and the musket; of the head, now bowed beneath the burden of years, that once marched erect to the cannon's mouth. Shall we, revelling in the heritage earned by their valor, withhold from them the crumbs that fall from the nation's table? Shall we demand a pierced hand or a wounded side as evidence, or will we accept the enlistment and honorable discharge as the basis of a verdict of "well done, good and faithful servants?" Are we to sit patiently by and wait until the veteran becomes a pauper before answering his cry or until he begs for bread before we appease his hunger? What a commentary this would be upon our boasted greatness, what a cloud upon the sky of our glory!

Mr. President, are we who rejoice to hear our national anthem resounding throughout a continent, to see one flag, the pride and glory of one people, every stripe of which is a herald of humanity and every star an evangelist of civil and religious liberty, sheltering one country which, to paraphrase the beautiful words of another, "stretches from the easternmost cliff on the Atlantic that blushes in the kindling dawn to the last promontory on the Pacific which catches the parting kiss of the setting sun"—are we then, the beneficiaries of this greatness, to require a pauper's oath or surgeon's certificate before we in some measure make even small acknowledgment of our gratitude by substantial recognition of the sacrifices made in our behalf?

To whom, Mr. President, do we owe all this? Future generations should learn from us where to turn with grateful reverence, and to what shrine to make their pilgrimage. Then why defer it? Why postpone it? Why leave it to others further removed from the scene of action? Why say to the shivering veteran, Wait! He has already waited too long. Yes; the hour has arrived, the duty is ours, the responsibility rests with us, and we should meet it with that rectitude of purpose that has ever characterized our great and glorious people, and marching bravely forward register upon the records of our country a determination that will meet with the approval of every patriot of every section, of every party, and of every creed.

Let us this day declare that not only the blind and the halt, the maimed and the starving, but every soldier who stood under the flag, left his home and his loved ones, and offered himself a sacrifice upon the altar of his country, shall receive from the land he saved a generous recognition of gratitude. Mr. President, if there were no precedent for this resolution, it would be our duty to make a precedent, but it has been made for us, and it is ours to follow. Weigh, Mr. President, the wars of 1845 and 1865—one was for greed and the other for glory, one was to add to our domain the other to save that which was born of the inspired genius of our fathers. The one added a new star, the other saved the galaxy; the one sprinkled the blood upon the outer post, the other crimsoned every field with the world's best and noblest blood from Fort Sumter to Appomattox.

Yet, Mr. President, after forty years, though our nation was still bleeding from the shock of battle, only convalescent from that dreadful catastrophe, a weakling compared with the giant of to-day, we removed all conditions, threw wide open the doors of our Pension Bureau, and gave alike to every soldier of the Mexican war who had reached the age of 62, or to the widow of a soldier. No search light of the physician's skill, no X-rays of judicial investigation, no hospital record, no pauper's certificate, only the enlistment, his honorable discharge, and his age constituted the passport that led him to his country's bounty.

Mr. McCOMAS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from West Virginia yield to the Senator from Maryland?

Mr. SCOTT. Certainly.

Mr. McCOMAS. I am listening with great interest to what the Senator is saying, and I wish to ask him at this point if the Mexican pension law was not passed about 1886?

Mr. SCOTT. It was passed in 1887. I am coming to that in a moment.

Mr. President, have we grown colder now than then? Has our patriotism been chilled by our growth and our sense of duty overshadowed by our greed and avarice? I may be answered that the roll is greater now than then, and the burden would fall heavier upon the shoulders of the people. I reply that the nation is greater, its shoulders are broader, and its frame more gigantic. Yes, the proportion is vastly greater in favor of the strength and ability of the nation than is the veteran roll call of the survivors of the Mexican war, as compared with the war of '61 and '65.

Mr. President, when that resolution was passed in 1887 we were an isolated people, ranking scarcely fifth among the commercial nations of the world. To-day, by the blessings of a kind Providence and the energy of a brave people, we have passed full mast from the lonely sea of isolation into the great ocean of nations, and we must take our place in bearing the responsibilities and discharging the obligations of the leading nations of the world. We rejoice to-day when the roll call is sounded to hear this, the uncrowned king of the world, answering first to the call.

Yes; from our garners of agriculture we are feeding the world. We behold with pride American machinery spanning the waters of the Nile, and hear the echo of the whistle of the American engine amid the Egyptian pyramids. We read the records and strike the balance of trade and find more than $600,000,000 to the credit of the American merchant, while the seas of the world are being whitened with the sails of American commerce. Yes; she is destined to conquer the world, not through carnage nor by the sword, but by the great principles of true Americanism. She is destined to conquer the world's trade and place the crown of American prosperity upon the throne of conquered empires.

Then, Mr. President, let her commercial growth fan and not smother the fires of her patriotism. These are the two great essential pillars upon which this mighty structure must rest. Is there one here who is not proud alike when he watches the march of his country's prosperity into the fields of older countries and when he beholds his flag waving in triumph over the imperial ruins of Spain, whose folds were unfurled in liberty's name and bathed in the blood that heroes gave it? Mr. President, we can not, if we would, deny our ability to fulfill the requirements of this resolution. Are you willing to confess your refusal to do justice to our veterans?

Mr. President, were we unable, I should say to my comrade, wait, and from his withered lips you would hear no murmur; but the table is laden with the fruits of his toil, while over yonder he sits weary and lonely by the roadside, his threadbare coat wrapped about him, his palsied arm hanging heavily by his side, his tired limbs trembling with years and cares, and waking from his reverie hears the command "Thou shalt sow, but thou shalt not reap; thou shalt plant the olives, but thou shalt not anoint thee with oil." Do I hear it whispered that we are not able to feed the hungry and clothe the naked? Do you tell me the pension roll has grown too large? I answer, Mr. President, that it is not larger than the muster roll—one is and must be measured by the other. I would not add one name to the one, and God forbid that I should obliterate one from the other. By the sacrifices of the one we must measure our liability to the other. We have received more than we can ever give.

At the famous Hampton Roads conference, called with the hope of ringing down the curtain upon that tragic stage, when the representatives of the Union and the Confederacy met, Mr. Lincoln, it is reported (though since denied), pointing to a sheet of paper he held in his hand, addressing Mr. Stephens of the Confederacy, said: "Let me write Union at the top of that page, and you may write below it whatever else you please." Mr. President, it is a sad contemplation that it was not then written, for it would have saved many a tear, many a grave, and many a home. Aye, could the recording angel have dropped a tear upon the scene and blotted out forever all that followed; but the hour had not arrived; the decree had not been written.

To-day, Mr. President, we rejoice that we can read written upon the canopy of our country that glorious word "Union," a word so cherished by the world's noblest patriots and so revered by us all. It was not written upon that sheet of paper, but it stands to-day written in the blood of the Union soldiers; and I ask in the name of the dead, and I ask, as I catch inspiration from our brothers' blood that cries out from the ground, let us write beneath that word simply gratitude, substantial gratitude, in practical provision for those who made it possible for you and me to see written there "Union."

Again, Mr. President, I would answer the miser's cry, that the pension roll is too large, by reminding him that we would deserve no credit did we make no sacrifices. The question of the hour is, Is it our duty? And we can not measure duty by the unit of the dollar. When our country called for volunteers, "Are you able and willing to fight?" was the extent of the inquiry. His name was entered upon that roll, his knapsack was strapped about him; he turned from the sweet companionship of home, mother, wife, and sweetheart to the association of his gun. He did not negotiate upon the price; he was not fighting for money, for individual fame, but for the preservation of this our glorious Union.

I ask you—and let this question be forever written upon the records; let it echo along the corridors of time; let it appeal to every heart—who was it made imperishable and indissoluble this

our glorious Union? It was the blood of the Union soldier that cemented the stones erected by the fathers of the Constitution; and they are not asking for the "last drop of blood, and the last pound of flesh," but are asking for an equitable distribution of the fruits of their handiwork.

Mr. President, this resolution provides that he be paid $12 per month after reaching the age of 62 and making application for same. This will be a scanty living; even then the wolf will howl close by. After the age of 62 few men, especially those who have undergone the hardships of war, are able to do manual labor. Many of these are to-day worthy; many of these are at this hour suffering for the necessaries of life. "The birds of the air have nests, and the foxes have holes," but many of our comrades have not where to lay their heads. You may answer me that there are many pension statutes now upon the records. Yes, and they are so constructed, as you will see by illustrations in the appendix, which I ask leave to print as a part of my remarks, that it is as "hard for a camel to go through the eye of a needle" as it is for a Union soldier to pass muster through the technicalities and red-tape humbuggery of the pension statutes. He must pass through a fiery furnace as galling as a political aspirant imagines the civil service requirements to be. Yes, Mr. President, he must stand every kind of an examination but a post-mortem one, and many of them have long since become subjects for the doctor's knife waiting at our door for that relief which never came. Mr. President, I believe this resolution will meet with the hearty approval of a brave and generous people. I know it will meet with the approval of our conscience.

I said, Mr. President, in the beginning that this measure was not partisan or sectional. I hope and believe that I have touched a higher and nobler chord than partisanship; I feel sure that I have invited you to a sweeter and holier atmosphere than sectionalism. I thank the God who has so abundantly blessed our glorious country that you and I have lived to see the curtain rung down upon the tragic state of the secession war. We have seen the red billows of that awful drama spanned by the arm of American patriotism, and by that inspiration this moment reflected from the beautiful and sunlit slopes of our Arlington—once dedicated to sectionalism, but to-day, under this holier and sweeter dispensation, receiving in its bosom the sons of those who wore the blue and those who wore the gray.

I hear the death knell of sectionalism echoing from the heights of San Juan Hill, where the intrenched foe and the burning July sun of a tropical sky could not wither the love for one flag, one country, and one Constitution; and when the crimson tide had rolled back and the smoke of battle had cleared away in the embrace of death lay the sons of those who wore the blue and those who wore the gray. How inspiring to those who were participants in that great struggle to watch the dead borne from that battlefield; follow each to his last resting place; and yonder, Mr. President, in some far-off Southern State, see that little graveyard near the old church; read the inscription upon a plain, rude stone, which tells where sleeps a Confederate soldier, wrapped in his Confederate gray, and about him the flag for which he died.

A new grave is being opened; the once young wife returns to-day to that sacred mound, now an aged mother. Twice has life been darkened to her by its sad pilgrimage to this hallowed spot. To-day it is the son, who, on her last visit, was a babe at her breast. As the casket is lifted from the hearse and is opened by the side of a new-made grave, that all that is earthly may receive a mother's kiss, and as the coffin closes with a mother's tears bedewing, not the grave, but the Stars and Stripes, by the ashes of a Confederate father we lay to-day all that is mortal of a Union soldier; and side by side the blue and the gray, the father and the son, bathed with a devoted wife's and mother's tears, will sleep to answer the final call.

Mr. President, were one to rise from the dead the evidence of reunion could not be stronger, and the loyalty of that section once in rebellion could not be better proven.

Mr. President, that this resolution is not sectional—I believe and I speak as one who knows the Southern sentiment—that it will find there, if not here, a hearty approval. I believe that we have lived to see a full realization of the prophetic words uttered by that immortal statesman, patriot, and philanthropist, Abraham Lincoln, more than forty years ago, when the clouds of sectionalism hung in somber gloom; when the fiery serpents of discord played about the horizon; when the earth trembled beneath his feet and the air was rent with the discordant notes of "Union and Disunion," like the majestic oak, baring its breast to the beating storm, and rising resplendent in all the glory of its majestic greatness, surveying the field, and calmly counting the cost, he said:

We are not enemies, but friends; we must not be enemies; though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as assuredly they will be, by the better angels of our nature.

Mr. President, I to-day hand you the golden cord stretching from every battlefield and patriot grave to your own living heart and hearthstone, and I trust the batteries may be awakened by the better angels of our nature, and the electric spark of patriotism carry the glad message to every home and gladden every hearthstone all over this broad land.

Mr. President, it will disturb no slumbering ashes of sectionalism, for the threads of the blue and the gray have been rewoven in our national loom of patriotism; and from this, our nation's capital, I turn my eyes to behold the blue sky of our Southland; I find there New England capital erecting cotton mills on fields once crimson with the world's best and noblest blood! The sword has been transformed into the plowshare; her wounded side is healed, the hand once red to-day wields the hammer and the sledge, and the echo resounding from her splendid industrial development is the glorious evidence of one imperishable and indestructible Union. With prosperity at home, with prestige abroad, we can defend the honor of our flag; either on land or on sea, alone or accompanied by the Constitution, for it is our flag. By American valor it will hover as a guardian angel above the graves of our valiant dead, and between it and dishonor every Southern sword will leap from its scabbard and by its side every Southern hero will proudly die.

Mr. President, those two great armies added luster and glory to each other; they have erected an imperishable monument to American valor, American chivalry, and American patriotism. We would not pluck one flower from the garland that festoons the memory of the one, and we know that no star will ever fade from the immortal crown of the other. Again, Mr. President, I would impress upon you that the time has arrived, the hand points to the hour on the dial, when this resolution should be enacted into statute. Forty years will have passed since the last gun was fired, and, in the light of precedent, by the guidance of humanity, no member of this body can justify opposition to a measure fraught with impartial justice and duty to our comrades.

I said, Mr. President, that it would not meet with opposition from our Southern friends, for there, almost without financial ability, they have set us the example; and for myself, with all my heart I approve and applaud the magnanimity of those Southern States, rising as they have from the ashes of desolation and ruin, who, from their scanty treasuries, are from year to year increasing and enlarging their pensions to the survivors of the lost cause. They are giving more in proportion than is this great Government, and their gifts are not surrounded with the cobweb of technicalities; no pension bureau to maintain; no medical boards and special examiners; no secret-service watchmen; no judicial bodies nor executive councils to sit in judgment; and, above all, no paupers' petitions to be presented.

I hand you here, Mr. President, this beautiful and appropriate New Year's greeting by the Commissioner of Pensions to his fifteen hundred colaborers. Read it and weigh it, and its very truth argues, tenfold greater than I, why all this red tape, all this retinue, all this army of doctors and special examiners should cease to be a charge upon the bounty due to the Union soldiers; and, Mr. President, the passage of this resolution would dispense with a greater part of all the laborers engaged in such momentous duties as are set out in this New Year's greeting, which I will ask the Secretary to read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

A NEW YEAR'S GREETING.

To my Coworkers in the Pension Bureau:

There are no places in the Government employ which require a higher order of ability than in the Pension Bureau. A knowledge of law, of medicine, and of military affairs are required in the adjudication of pension claims. The duties are not in their nature clerical, but are in their nature judicial. The employees of the Pension Bureau should constitute the élite corps of the civil service in Washington. I hope it will be so. There are men in the Pension Bureau who have led brigades. There are men who are capable of filling high legislative, executive, and judicial positions. There are not 1,500 people associated together on earth anywhere with a higher sense of commercial honor. I do not believe that there is in the Government employ any class who work more constantly. There are none who work more loyally and none more conscientiously. I wish them to know that I have confidence in them, and that, having become acquainted with them, I trust them and believe in them, and I wish them to think as much of me as I do of them.

The work done during the past calendar year shows an increase over that done the year before. All work should be done carefully and judicially on cold evidence and cold law, and nothing should be hasty and careless; but I wish that the number of adjudications might be increased during the coming year.

We will not run out of work, because Congress will keep us busy. There are more claims pending to-day than there were six months ago.

In closing I wish to thank my deputies and personal staff for their hearty and loyal support, and I wish to express my admiration for the industry and ability of the division and section chiefs—every one of them; and I wish to express my gratitude to my fellow-workers in the Bureau for the skillful and conscientious manner in which they are discharging their duty.

I wish them all a happy New Year.

E. V. WARE, *Commissioner.*

JANUARY 1, 1903.

Mr. SCOTT. Mr. President, there are no laws upon the statute books needing revision more than our pension statutes. There are many; they were passed at different times, and to meet conditions as they arose. They should be examined and revised, and repealed by one general statute embodying all the law upon that subject as to who should be pensioned, what should be the basis of his claim, and the mode of procedure; and, for God's sake, let his claim rest upon his record on the battlefield rather than upon his hospital report. All know how easy it was, and how fearlessly some could march in a hospital charge; we could be our own captain, both giving and executing the command, with nothing to fear save the dangers incident to a doctor's prescription.

Yes, Mr. President, we find almost as many doctors to-day in the Pension Office passing on cases as we found in all the hospitals healing the wounds and binding the broken members during the war. Why should a corps of learned doctors be maintained to determine from the records whether the poor Union soldier is suffering and disabled from rheumatism contracted from 1861 to 1865, or subsequently thereto? Does it make his pains greater or his needs less? Does it lessen the country's duty? Was he a soldier? Is his name written upon the roll of that immortal band? Was he honorably discharged? Is he disabled? Does he need his country's aid? Is he 62 years of age? No learned surgeon, no trained jurist, no skilled diplomat need be summoned to render judgment, to pass upon legal technicalities, or unravel the mysteries of human anatomy.

Preserved sacred at the War Department is the roll of his enlistment. Laid near his mother's prayer book will be found that parchment showing his honorable discharge. In the family Bible will be found the record of the soldier's advent into this world. The name upon the roll, the date of enlistment, and the discharge, when the three are laid together, you meet the only requirement, the only demand, a grateful people should exact. Our pension system was never intended to depopulate the almshouses of the country, nor was it intended to become a snare and a delusion; but it is a law of compensation, founded upon consideration, to be prosecuted by the highest principles of human justice and executed with patriotism.

Mr. President, do our present statutes measure up to this standard? By them we must stand or fall. To-day, Mr. President, I hold up before the world; yes, by the light of the twentieth century, amid the din and roar of your boasting patriotism, the braggadocio of your country's greatness, while that vast army of Union veterans, decrepit and infirm, weary over the long march of life, and knocking at the door, are passing away "unwept, unhonored, and unsung." They are the same ones who bared their breast to the bayonet, that this very Capitol that shelters you and me might not be destroyed. Let this commission be appointed; let it assume the task that will appeal to duty and to patriotism, and not to partisanship, nor to sectionalism. Let its members be men who can not be swerved from duty by the cheer of the demagogue or the groans of the miser, and recommend to the next Congress such a measure as will simplify our present complex system, and broaden the pedestal of our philanthropy.

I believe, Mr. President, while I am wedded to no particular number of days—I believe when the soldier served ninety days and was honorably discharged, and has reached the age of 62, he should receive from this Government not less than $12 per month. This will give him a few of the necessities and none of the luxuries of life. It is small to the individual, and the aggregate would never be felt by this people. It is not wasted. It is not squandered. Can human genius devise a more appropriate outlay for the accumulated surplus? It would prove a generous method of redistribution.

You ask would I place the soldier who served but ninety days on equality with the one who served from one to four years? For answer, Mr. President, I point you to the beautiful parable of the vineyard. I want no higher guidance—you should ask no other. Let us dispense with that large roll of pension agents whose salaries amount to $72,000 a year; with clerks who are paid $415,164.31; rent for the different agencies, $9,480; contingent expenses, $29,769; and close the door upon the the army of examining surgeons, paid $191,123.85, together with traveling expenses aggregating $502,442.11; this costly paraphernalia of examining soldiers, $1,808,856.

This vast sum is multiplied many times over by the salaries of clerks and other employees. All these could be dispensed with or the greater part of them. And, again, Mr. President, when you examine the course of procedure you discover not only this enormous expense to the Government, but how slowly this great body moves. Many a soldier files his claim, and long before it is reached he has passed over the river and filed a claim elsewhere. Nearly forty years have come and gone; 861,076 applications are on file; of these 470,850 have been allowed, leaving nearly 400,000 not acted on. At this rate it will require eighty years to complete the roll, and when completed there will be none left to answer it.

I have endeavored, Mr. President, merely to drive the entering wedge. I may not live to see the work this day begun finished; I may have joined the ranks of many of the battle-scarred veterans who have gone before; but while I do live I feel that I can dedicate the remainder of this lease of life to no better purpose than in some way to alleviate the wants of my comrades in arms. Let one decree, one verdict, and one judgment adjudicate the claims of our soldiers! Dispense with forms and ceremonies! Remove the clogs of tardy justice! Open wide the door under the command, "Bring your family Bible in one hand, your enlistment and your discharge in the other." The record is then spread out before you; and this would be all the evidence needed as the basis of a pension.

I realize, Mr. President, that in this busy age legislation of this kind is hard to find lodgment; that measures purely humanitarian or patriotic should yield to the demands of commercialism; that the demands of the business man are paramount to all others, and that measures like this should sit supinely by and wait for a more fitting season. Mr. President, all this glitter may not be gold, and when tried might prove but "sounding brass and tinkling cymbal." There may come an awakening from this beautiful dream of commercialism. I fully realize that never before in all history were the wheels of industry moving with such rapidity as now. Fortunes are developing like sparks flashed from some heated iron. The whole world is speeding headlong. The lightnings of heaven are bearing our burdens, transmitting our thoughts, and molding our fortunes.

Into what station we will land only the great engineer, God, can tell. To Him alone doth the searchlight upon the engine show the track beyond the curve. Danger may lie before us. This splendid industrial life may be threatened by foes within or foes without. The very life of the nation itself may again be endangered. Under such a condition, where would you turn? To your commercialism? No; you would turn to the thousands of loyal and patriotic citizens who are ready to lay down life for country. Would such a resolution as the one I am discussing be deemed inappropriate then? You would gladly hug it to your breast, not as a shield, but as an inspiration to the common soldier. Mr. President, the veterans of the sixties are asking no more, they should be content to ask no less, of the Government than has been given to the veterans of the Mexican war. Compare the two wars—one, almost a bloodless journey into the city of Mexico; the other, four long years, whose every pathway was marked by blood and carnage ere the city of the Confederacy was reached. One was to extend the flag, the other to save it. Will you give to the one and deny the other?

Mr. President, we are abundantly able, with more gold in our Treasury than was ever within the vaults of any government on earth before. Our rapid growth and development and the splendor of our genius stand the wonder and study of mankind. Mr. President, the harvest is plentiful, and the laborers must by the laws of nature grow fewer each year. Over the span of forty years many of our comrades will have marched in triumph to that final victory. Let our gratitude cheer the hearts and our bounty brighten the pathway of the survivors. In this our hour of financial triumph, when the oceans touch hands with arms of steel; when every hill and valley is musical with the spirit of our national industry; when the breakers of the sea are bending beneath the burden of our exports; when our surplus is rising higher and higher day after day, until the very bars are bursting with its weight, let us do something else than turn the Union veteran from our door.

Yes, my countryman, let us shake off the frost that chills the spirit of our national patriotism, and by the memory of their noble sacrifices and by that sweet communion with the shadows of our valiant dead, regild the staff of the flag with our loyal love, touch with sacred hand each glittering star, and with filial devotion dedicate anew our lives around the altar made sacred with its folds. Our obligation will not have been paid until the sentinel of the law has sheathed his sword, the barred doors have been loosed, the soldier-proof statutes have been repealed, the army of pension employees disbanded, and one general law embracing the pension system enacted, with the right to pension based upon actual and honorable service in the Army, with a fixed age applying to all alike; and with no other record than the applicant's enlistment and his honorable discharge. When we have gathered the Union veterans from the hedges and the highways, when we have provided a balm in Gilead for every one, when each of them shall live by a nation's generosity, as evidence of a nation's gratitude and patriotism, we can fold our arms and, looking back upon duty well done, say, as did the Hero of Calvary, "It is finished."

APPENDIX.

PENSION LAWS.

The pension laws of the United States comprise a body of special acts, provisions contained in the Revised Statutes, and joint resolutions of Congress, and are published in a volume of about 200 pages, including rules of practice, and procedure, and forms. These laws are a sort of patchwork, covering a long period of years, and embrace:

(*a*) One hundred and twenty-five sections of the Revised Statutes, often amended or modified.

(*b*) One hundred and twenty special acts of Congress.

(*c*) Provisions in 28 appropriation bills.

(*d*) And several joint resolutions.

No attempt has been made to revise or codify the pension laws since 1873, although several attempts have been made in that direction in Congress. These laws have been described as—

"So heterogeneous, fragmentary, and scattered (many provisions of vital importance being found obscurely placed in long and cumbersome appropriation acts), and yet so mutually interdependent as to be extremely difficult of access and comprehension without some authoritative systematic grouping." (Report of Committee on Revision of the Laws, H. R., February 1, 1896, Fifty-fourth Congress, first session, Report No. 219.)

"* * * They consist of many separate acts, framed with little reference to each other, and often giving rise to perplexing questions, such as the question whether pension accrued but not paid at the death of a pensioner shall go to his widow and minor children, or in payment of expenses of last sickness or burial, or be paid in the discretion of the Secretary of the Interior to the legal representatives of the deceased pensioner, or shall lapse." (Report of the Commissioner of Pensions, June 30, 1893.)

"Since the passage of the general law of July 14, 1862, there have been numerous laws amendatory, special and general, with the many rulings and decisions interpreting the laws, until the whole system is a most complex and wonderful network or labyrinth of laws and legal opinions, to the end that a precedent may be cited for any action of this Bureau." (Report of the Commissioner of Pensions, June 30, 1898.)

TWO SYSTEMS UNDER WHICH PENSIONS GRANTED.

There are two systems—or a dual set of laws—under which pensions may be granted:

(*a*) Acts of July 14, 1862, and March 3, 1873.

(*b*) Act of June 27, 1890, as amended by act of May 9, 1900.

The recent legislation is more liberal in that it grants pensions for conditions not due to the service, as under previous acts. But these dual laws serve to complicate the entire system and to produce inequalities in some cases.

Illustration.—Under existing laws a woman who marries a soldier pensioned under the act of June 27, 1890, is not entitled to a pension as widow unless she were married to the soldier prior to the passage of the act in question, whereas the woman who marries a soldier pensioned under the general law, and thereafter becomes a widow, is entitled to a widow's pension.

Varying conditions.—Under the act of June 27, 1890, as amended by the act of May 9, 1900, it must be shown that the widow is without means of support other than her daily labor and an actual net income not exceeding $250 per year. But the widow may have an income of $250 a year when her case is examined, and the year after, through reverses, or ill health, may be penniless and in need of the pension.

Grant of invalid pensions under two systems.—Under the act of July 14, 1862, as amended March 3, 1873, pensions were granted for invalids only for causes of service origin; but under the act of June 27, 1890, pensions were granted for disability which incapacitates for earning a support.

"The Department's interpretation of the law (June 27, 1890) has been that under said act pension is provided only in cases when incapacity to labor joins with incapacity to earn a support. I am free to say that the practice has never been to inquire into the capacity of the claimant to earn a support." (Commissioner of Pensions, June 30, 1899, p. 40.)

If no inquiry is made as to the capacity of a man to earn a support, no inquiry ought to be made as to the net income of a widow so as to prevent her from securing a pension.

Again, the practice, just noted, is not in accordance with law, and may be varied at the caprice of a Commissioner.

Illustrations under dual systems. (Commissioner of Pensions, June 30, 1899, p. 40.)

"A claimant may have a pensionable status of $10 or $12 per month for disabilities incurred in service, viz, he may be suffering from deafness, rheumatism, hernia, catarrh, or other disability. The same claimant may have, since the war, lost a leg or an arm, or have become stricken with paralysis or other severe disability (not of service origin), and these disabilities can not be added to or combined with his pensioned disabilities to increase his rate in excess of $12 per month. Thus the two separate and distinct systems of pensioning (both for disability alone), one for disability of service origin, the other for disability regardless of origin, afford a wide field for comparison and misunderstanding."

"As a further illustration showing the effect of the two systems of granting pensions created by the laws, a case may be cited where a claimant becomes totally blind from causes incident to his service. The law provides a pension in this case of $72 per month. In the same village another claimant became totally blind from causes not connected with the service, and the law grants him only $12 per month. The community, not being familiar with the legal rights of the two claimants, can not understand why one of these men receives a higher rate of pension than the other for the same disability, and the Pension Bureau is usually held responsible. Few stop to inquire into the facts which confer title in the different cases and to ascertain the fact that these conditions are created by law."

SPECIFIC OBJECTIONS TO PENSION LAWS.

A. Marriage and divorce.—Act of August 7, 1882, provides that marriages shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right of pension accrued.

Section 4705, Revised Statutes, provides that widows of colored and Indian soldiers may receive a pension "without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory," and have lived together as man and wife.

In Maryland, where the common-law marriage is not recognized, a widow of excellent repute—but not married according to law—was refused a pension, yet pensions in the same State are granted to colored people and Indians.

The Secretary of the Interior has recommended the passage of an act for "the admission of evidence to prove marriages for pensionable purposes by a standard which will be uniform throughout the entire jurisdiction of the United States." (1900, p. 62.)

B. Widows' claims.—Act of June 7, 1888, repealed all limitations as to date of filing application in cases of widows of deceased soldiers and sailors, and made their pensions commence from the date of the death of the husband.

"No pension legislation that has ever been enacted has been so fruitful of fraudulent practices as the act of June 7, 1888." (Commissioner of Pensions, 1900, p. 30.)

The same officer denounces the act as one "that encourages crime and holds out inducements for the filing of fraudulent claims."

Several cases are cited where, under this act, pensions had been, or were about to be, granted up to $4,000, yet discovered to be fraudulent.

C. Inequalities under laws.—a. Increase.—Act June 16, 1880, grants pensions to those who were then receiving a pension of $50 per month under act June 18, 1874, should have the same increased to $72 per month from June 17, 1878. But the act applied only to those who, on the 16th of June, 1880, were entitled to the benefits of the act of June 18, 1874. The act made no provision for the cases of persons who, by the increase of their disabilities, should after June 16, 1880, become so disabled as to be entitled to the benefits of the act of June 18, 1874. The result of this is that those who, since June 16, 1880, have become so disabled as to require the aid and attendance of a second person because of total and permanent helplessness receive a pension of $50 per month, while those who, on the 16th of June, 1880, were receiving a pension for disability of this degree are now on the roll at the rate of $72 per month.

b. Loss of hand or foot.—Act of August 4, 1886, provides a pension of $30 per month for the loss of a hand or foot. Under the proviso to the same act the pension for a disability one-half that produced by the loss of a hand or foot is $9 per month. For a disability equivalent to the loss of a hand or foot, the pension for the period since March 3, 1883, is $24 per month. A disability not equivalent to the loss of a hand or foot is pensioned at such proportional part per month of $18 as the disability bears to that which would be caused by the loss of a hand or foot. It is desirable that there should be in all cases a fair proportion between the pension and the extent of the disability.

c. Discrimination against Navy.—Act March 3, 1877, directs that the act which forbids payment of pension money to any persons, widows, etc., who aided in the rebellion shall not apply to persons who afterwards voluntarily enlisted in the Army of the United States, and who were disabled or contracted disease. This law makes no provision for persons who under like circumstances enlisted in the Navy.

d. Relief for total disability.—Act of March 3, 1883, grants a rate of $20 per month to those so disabled as to be incapacitated for performing any manual labor, yet the act of March 4, 1890, awards $72 per month to those who require the regular aid and attendance of another person.

"There are many claimants," says the Commissioner of Pensions, "who are entirely incapacitated for performing manual labor and who periodically require the aid and attendance of other persons, but who are unable to establish the fact of the requirement of constant aid and attendance."

e. Improper ratings.—Special consideration ought to be allowed, under act of June 27, 1890, on account of deafness. But it appears that an improper and unjust rule is followed by the Pension Bureau in this respect. For, in the report of the Commissioner of Pensions for 1902, at page 85, it is said:

"In cases where deafness is the only disability found to exist, a rate can not be accorded under the act of June 27, 1890, if the deafness exists in a degree less than severe in both ears. Deafness of one ear is not rateable under this act, because incapacity to perform manual labor to a degree which produces inability to earn support does not result from that cause."

A man who is deaf, even to some degree, is, under the sharp competition of the present time, under a great disadvantage, and often finds it very difficult to secure anything save inferior work. He can not get work as a carpenter, or in a mill, or on railways, where good hearing is essential, and often to the safety of fellow employees. It is clear, therefore, that the present rule of the Pension Bureau must work a great injustice to men who have become deaf to a certain degree as a result of army service.

f. Dependent parents.—The law granting pension to a mother or father on account of the death of a son requires that, to give title, the condition of dependence should have existed at the date of the son's death, and have been recognized by him. If, since the son's death, the parents have fallen into a condition in which they require aid in providing a support for themselves, the law, as it now exists, affords them no relief. The Committees on Pensions of the Senate and House of Representatives have established a rule under which cases in which a condition of dependence exists at the time of application to Congress are recommended for relief by special act, and Congress has acted in accordance with the recommendation of the committee. (Commissioner of Pensions, 1899, p. 72.)

g. Widow marries and conceals fact.—In some cases a widow remarries and conceals the fact, and thus prevents her children from drawing the pension. Legislation to cure this evil should be effected.

h. Where widow kills husband.—Section 4817 of the Revised Statutes should be so amended as to debar from succession any person who has been guilty of feloniously causing the death, etc., of a pensioner.

MEDICAL EXAMINATIONS.

Act of May 9, 1900, sec. 2, provides:

"That all persons * * * suffering from any mental or physical disabilities of a permanent character, not the result of their own vicious habits, which so incapacitates them from the performance of manual labor as to render them unable to earn a support, shall * * * be entitled to receive a pension not exceeding $12 per month, and not less than $6 per month, *proportioned to the degree of disability to earn a support; and in determining such inability each and every infirmity shall be duly considered, and the aggregate of the disabilities shown rated* * * *."

Is it any wonder that, under such regulations, a great many of the nation's heroes pass away with their claims unadjudicated, or the debt of honor unrepaid?

As an evidence of the difficulties which confront an application for pension a case may be cited of a medical examination reported by the Commissioner of Pensions in 1898. An applicant, under a test case, was examined by four medical boards of three members each within forty-eight hours and under the same conditions. One board could find no ratable disability; another found a ratable disability and estimated it at $8 per month; another board found disability and carefully described it and rated it at $17 per month; the other board made an equally careful examination and estimated the claimant's disability as third grade, $24 per month.

The Report of the Commissioner of Pensions, 1898, page 11, further says:

"There is much complaint among pensioners, and very just cause for such, by reason of the lack of uniformity of ratings for the same or like disabilities in cases of different claimants. This complaint has always existed and always will with our present system and established practice, and it can not be remedied without radical change of system."

The Report of the Commissioner of Pensions, 1880, says:

"The present system of adjudication, based almost wholly upon ex parte testimony, is admittedly defective."

Opinion of Secretary of the Interior (Report for 1901, p. 71):

"The Commissioner (of Pensions) quotes from the annual reports of his predecessors as far back as 1868 to show that the same unsatisfactory conditions have existed ever since that date with regard to the system of adjudicating pension claims on ex parte testimony and the reports of examining surgeons made under existing practice."

Report for 1902, page 58:

"The present method of examining applicants for pension, the Commissioner states, is uncertain, expensive, and unsatisfactory in its results, the personnel of the various medical boards being liable to outside control and political dictation."

DIFFICULTY OF SECURING A PENSION.

Under the present complex system it is about as difficult to secure a pension, in the cases chiefly presented to the Bureau, as it is to win a case in court. In fact, an application for a pension is placed in about the same position of a suitor in a court of justice.

a. Medical examinations.—"The medical examinations form the basis, the very foundation, of our whole system, as all pensions to soldiers (under the act of July 14, 1862, and the act of March 3, 1873—the general laws) are based upon the disabilities incurred in the service, while those pensioned under the act of June 27, 1890, must show, by medical examination, that their disabilities (not of service origin) are such that they are incapacitated from making a living by manual labor; and further, having once established a ratable disability, future increases depend upon medical examinations." (Report Commissioner of Pensions, 1898, p. 11.)

b. Causes of rejection.—"During the fiscal year 1899 the number of claims rejected was 107,919. As there were only 89,054 certificates issued during the year, it will be noted that the number of rejections exceeded the number of allowances.

"In discussing the different causes of rejection of original claims they may be divided into 3 different classes:

"(1) Claims for which no provision is made by existing laws;

"(2) Claims in which the claimant is unable to furnish the necessary proofs; and

"(3) Claims which are fraudulent." (Commissioner of Pensions, 1899, p. 27.)

"Many claims are filed for 'new disabilities' alleged as of service origin. The great majority of such claims must necessarily be disposed of by rejection." (Commissioner of Pensions, 1901, p. 41.)

c. Number of appeals.—Data respecting the number of appeals filed will further indicate some of the difficulties of securing a pension:

"That some idea of the enormous increase in the number of these appeals may be obtained, it will be sufficient to state that for a period of fifteen years prior to January 1, 1881, the average number of such appeals for each year amounted to 286. Since that date the number or increase has been large and constant, as follows:

1881	479	1885	2,760
1882	513	1886	2,874
1883	1,097	1887	1,941
1884	2,148		

(Report of Secretary of Interior, 1888, p. 84.)

There were pending on July 1, 1896, 1,069 appeals and 28 motions for reconsideration of departmental action. During the year 5,592 appeals and 270 motions were filed; of these 4,851 appeals and 224 motions were disposed of, leaving pending on July 1, 1897, 1,810 appeals and 74 motions for reconsideration.

One thousand two hundred and fifty-seven appeals and 69 motions for reconsideration were on the docket on June 1; since that date 3,056 appeals and 309 motions have been filed.

On October 2 there were pending 2,950 appeals and 200 motions for reconsideration of departmental action, 1,363 appeals and 285 motions having been disposed of since June 1, 1897. (Report of Secretary of the Interior, p. 24.)

The number of appeals on the docket April 15, 1893, was 4,935. Since that date 17,755 new cases have been filed, making a total of 22,720 to be acted upon by the Department. (Report of Secretary of the Interior, 1896, p. 31.)

"* * * During the fiscal year ended June 30, 1898," is "unprecedented in any one year in the history of the board of pension appeals since its organization, fifteen years ago: * * * an examination of the records will show that it is in excess of the number filed in any two years. It is also shown that the proportionate increase has continued since July 1, 1898, and that on October 1, 1898, there were pending 11,820 appeals and motions for reconsideration." (Report of Secretary of Interior, 1898, p. 73.)

The following summary shows the action taken by the board of review in original claims during the past four years:

Year.	Admitted.	Rejected.	Total.
1898	52,648	48,175	100,823
1899	37,077	46,345	83,422
1900	40,645	44,670	85,315
1901	50,904	48,361	99,265
Total	181,274	187,551	368,825

APPEALS.

The Department, through the board of appeals, acted in 5,428 appealed claims during the year; affirmed the action of the Bureau in 4,471 cases, and reversed the Bureau findings in 546 cases. (Report of Secretary of Interior, 1901, p. 26.)

d. Pension court.—To increase the complications attending the administration of pension matters, the Secretary of the Interior has recommended the creation of a pension court, similar to the Court of Claims, for the review of the action of the Commissioner of Pensions or of the action of the Secretary. (See Report of the Secretary of Interior, 1900, 63; id., 1901, 73.)

RECOMMENDATIONS AS TO REVISION.

It is recommended that a pension be granted to every soldier and sailor who did substantial service during the war in the Army or Navy and was honorably discharged therefrom, and who, being dependent on his daily labor for support, is now or may hereafter be disabled from procuring subsistence by such labor. A due regard to its own dignity and character should prevent the Government from allowing any of the men who fought to maintain the Union to suffer from want when they have become so incapacitated. It is well known to all our people that many who were never disabled in the fight or the service were yet those who met the greatest dangers of the war and who served continuously and faithfully. That Providence saved them from wounds or disease, and that their strong constitutions withstood the hardships of the field, give no reason why they should be left disregarded and unsupported now. The pension is paid by the Government in rewards for past services to those who fought to maintain its existence. It has the sanction of self-preservation, which no government in the treatment of its veterans can safely ignore. The preservation of the nation for which these men fought and endured so much to secure has given to all our people a wonderful degree of prosperity and an almost unlimited ability to pay any obligations honor imposes. (Secretary of the Interior, 1889, p. 67.)

The Commissioner recommends a codification of the pension laws, with such slight changes as will make them harmonious. At present they consist of many separate acts, framed with little reference to each other, and often give rise to perplexing questions in the settlement of claims for accrued pensions, etc. (Secretary of the Interior, 1893, p. 29.)

Legislation is recommended which will define with more certainty the pensionable rights of minor children under the act of June 27, 1890, in those cases where the soldier dies leaving no widow surviving. The construction of the act on this point now rests in much doubt, and the title of such children is sustained only by implication. (Secretary of the Interior, 1895, p. 28.)

Attention is invited to a bill described as "An act to codify and arrange the laws relating to pensions." The Commissioner strongly urges the passage of this bill on account of its admirable arrangement, and also on account of the great advantage which will be derived from it, not only by the Bureau, but also by those with whom the Bureau has official dealings.

He (the Commissioner of Pensions) also calls attention to the fact that since the passage of the general puesion law of July 14, 1862, many laws, general and special, and many rulings and decisions interpreting the laws, have been rendered, until the system is a complete network of laws and legal opinions, and recommends the appointment of a commission to revise the pension laws and regulations governing the granting of pensions, in order to secure reliable, intelligent, and uniform practice in the future. In this recommendation I concur. (Secretary of the Interior, 1898, p. 71.)

An early revision and codification of the pension laws is, in my judgement, highly desirable, and I therefore earnestly commend the Commissioner's recommendations in the premises to the favorable consideration of Congress. (Secretary of the Interior, 1899, p. 44.)

The Commissioner again calls attention to his former recommendation as to the necessity for a thorough revision of the pension laws with a view of making their operation more uniform in character, and expresses the opinion that a commission should be appointed for that purpose, to the end that the benefits conferred in the way of pensions may be more equitably distributed among the beneficiaries. (Secretary of the Interior, 1900, p. 61.)

Mr. GALLINGER. Mr. President, I have listened with great attention to the interesting and eloquent speech of the Senator from West Virginia [Mr. SCOTT] on the subject of pensions. As I gathered the contention of the Senator, not having heard the first part of his speech, he has made a very earnest appeal for a service-pension law that would give a pension to every soldier who served a certain number of days in the late civil war.

Mr. President, that subject has been agitated for a good many years, and on the 12th day of May, 1902, the Committee on Pensions, of which I chance to be chairman, gave a protracted hearing to certain distinguished gentlemen interested in a bill which, if enacted into law, would have accomplished precisely what the Senator from West Virginia has argued in favor of. At that hearing it was stated by certain gentlemen, one of whom was Mr. John P. Donahoe, of Wilmington, Del., a distinguished soldier, that there are now 200,000 soldiers who had served in the civil war who are not on the pension roll. The Senator from West Virginia has surprised me by saying that there have been 861,076 applications; that 470,450 have been allowed, leaving 390,226 unacted on, or 190,226 more than was represented to the committee.

Mr. SCOTT. These figures came from the Pension Office.

Mr. GALLINGER. If that be so, the gentlemen who appeared before our committee and stated that there were 200,000 were 190,226 short of the actual number, according to the applications in the Bureau of Pensions. It seems to me there must be some mistake on that point.

Mr. President, the matter of service pensions has engaged the attention of the Congress of the United States during all its history, and I want, in a very few words, to give the record as to the dates when service pensions have been granted to survivors of the several wars.

The first general act passed granting pension for service only was approved March 18, 1818, or thirty-five years after the termination of the Revolutionary war. Its beneficiaries were required to be in indigent circumstances and in need of assistance. It will be observed that this was not a general service-pension law, but simply granted pensions to those who were in necessitous circumstances.

On May 15, 1828, or forty-five years after the close of the war, service pension was granted to those who served to the end of the war of the Revolution.

Under date of June 7, 1832, a general law was enacted pensioning all survivors who served not less than six months in said war. This act was passed forty-nine years after the close of the war.

The first law enacted granting pension on account of service in the war of 1812 was approved February 14, 1871, fifty-six years after the close of the war. Sixty days' service was required.

The period of service required under the act of February 14, 1871, was reduced to fourteen days by the act of March 9, 1878, which was passed sixty-three years after the close of the war.

On January 29, 1887, being thirty-nine years after the close of the Mexican war, an act was passed providing pension for soldiers and sailors who had had a service of sixty days, provided they were 62 years of age, or disabled, or dependent.

A subsequent act was passed, the date of which I do not now recall, increasing to $12 per month the pensions to soldiers of the Mexican war, who were on the roll under that service act, if they were in a condition of actual destitution. Under that amended act the pensions of about one-half of those on the roll have been increased from $8 to $12, and the other half remain on the roll at $8 at the present time.

On July 27, 1892, fifty years after the period included in the act,

pensions were provided for those who served thirty days in the Black Hawk, Creek, Cherokee, and Florida wars with the Seminole Indians from 1832 to 1842.

Now it will be observed that practically all service-pension laws now on the statute books were passed about forty years after the close of the war; perhaps an average of forty-five years. So upon that basis the time is approaching for a service-pension law for the survivors of the civil law.

But, Mr. President, there is a matter which comes in to complicate this question materially, to which I wish to call the attention of the Senate and the country. On June 27, 1890, Congress in its wisdom passed what is known as the dependent pension bill, or, as it is more commonly designated, the act of June 27, 1890. To all intents and purposes that is a service-pension law, for the reason that it does not require the soldier to prove any disability incurred in the service, but simply to prove inability to perform manual labor. The rates were graded $6, $8, $10, and $12, so that a soldier who had served ninety days in the civil war and was totally disabled from manual labor would receive a pension of $12 per month. Those who were partially disabled would receive pensions of $6, $8, or $10, according to the degree of inability to perform manual labor.

Mr. President, under that law, which, as I have before said, is a practical service-pension law as far as it goes, $700,000,000 have been paid out of the Treasury of the United States to the soldiers placed on the roll under it. And in considering the question as to the desirability of now enacting a service-pension law—and on that point I am not to-day going to express an opinion either pro or con—we should not lose sight of the fact that the enormous amount of $700,000,000 has already been paid out under the act of June 27, 1890, to soldiers who are not required to prove, and in no single instance did they prove, the incurrence of the slightest disability in the military service of the United States, but merely proved that they had served the period of ninety days and were either partially or wholly disabled for the performance of manual labor.

Now, Mr. President, I do not know whether it is desirable to go further than we have gone at the present time in the matter of extending the pension laws. We do know that we are paying out to the soldiers of the civil war about $135,000,000 per year. We do know that we have paid out considerably more than $2,000,000,000 since the close of the civil war. We know that; and under existing conditions, notwithstanding the plethora of the public Treasury, notwithstanding the fact that we are a rich and powerful and prosperous nation, as the Senator from West Virginia has so ably argued, it is a very serious question for Congress to determine whether the time has come to very largely swell the annual appropriations for pensions.

If there are 200,000 soldiers remaining of that war who are not on the pension roll at the present time, and who shall be placed there under the proposition of the Senator from West Virginia at $12 per month, it will add an immediate amount of $28,800,000 to the pension appropriations. I presume it is not an exaggeration for me to say that men at the age of 62 years will average to live ten years, and, under that law, if they should live an average of ten years, it would take $288,000,000 to pay the expenses incurred by the passage of a bill of this kind.

But, Mr. President, that does not represent the entire amount that would be required. Under the act of June 27, 1890, which, as I have stated before, has resulted in an expenditure of $700,000,000 or thereabouts, there are thousands of men, tens of thousands, scores of thousands of men on the roll at six, eight, and ten dollars per month. A very small proportion of them are on the rolls at $12 per month, because those who receive $12 per month have been required to prove their absolute inability to perform manual labor.

So, as soon as we pass this proposition to place on the roll all the men who are not now pensioned at the rate of $12 per month, we would be compelled to increase the pension of all those under the act of June 27, 1890, from $6 to $12, from $8 to $12, and from $10 to $12, and there would be no possibility of our being able to resist that proposition.

But, Mr. President, I will go further. Under the general law there are perhaps 100,000 soldiers on the roll at $6, $8, and $10 per month. Many of those men, who have proved disabilities incurred in the service, were receiving the paltry sum of $2 and $4 per month until a few years ago we passed a law increasing the pension of all of them to $6 per month. But at the present time there are a great many thousands of men on the pension roll under the general law at $6, $8, and $10 per month, and the moment you pass a service-pension bill which will place these 200,000, or, as the Senator from West Virginia has put it, 390,000, soldiers on the pension roll at $12 per month, we will be compelled, of course, to increase to an equal amount the pensions of all those who are on the roll under the general law and who have proved the incurrence of disabilities in the service.

Mr. President, I take the risk of being misrepresented in this matter; it may be, and probably will be, said that I am an enemy to this proposed legislation; but, Mr. President, I think it may safely be said that if we should pass a service-pension bill to-day putting the survivors of the civil war on the roll at $12 a month, those who would necessarily be increased under the act of June 27, 1890, and the general law to a similar amount would at least double the appropriation we would be called upon to make to meet the proposed legislation of the Senator from West Virginia, and in considering this matter all the elements in the case should be taken into consideration.

Now, Mr. President, I felt it my duty as chairman of the Committee on Pensions to state this matter clearly to the Senate and to the country, that it may be perfectly understood what this proposed legislation means. I shall never be found obstructing any legislation in the interest of the veterans of the civil war that is reasonable and just, and I do not want to be understood as saying that I should oppose the proposed legislation if it was being seriously considered by the Congress of the United States. But we can not wink out of sight the fact that the proposed legislation will beyond a question add an immediate annual appropriation of at least $50,000,000 to the $140,000,000 that is now appropriated, and that we can not by any possibility avoid meeting that obligation if the views of the Senator from West Virginia regarding this matter shall prevail.

Mr. President, this is all I care to say.

STATEHOOD BILL.

Mr. QUAY. I renew my motion that the Senate proceed with the consideration of the omnibus statehood bill.

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from Pennsylvania moves that the Senate proceed to the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

The motion was agreed to.

Mr. GAMBLE. I will ask the junior Senator from New Hampshire to yield to me while I ask for the present consideration of Senate bill 7004.

The PRESIDING OFFICER. The Senator from South Dakota asks that the statehood bill be temporarily laid aside. Is there objection?

Mr. QUAY. Mr. President, I have said to the Senator from South Dakota, who seems to think it very important that his bill should pass to-day, that if it elicits no discussion I shall not object to its consideration. But I will not assent to-day to unanimous consent for the consideration of any other measure.

MISSOURI RIVER BRIDGE.

Mr. GAMBLE. I ask for the consideration of the bill (S. 7004) to extend the time for the completion of a bridge across the Missouri River.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

A bill (S. 5316) providing for an additional circuit judge in the eighth judicial circuit;

A bill (S. 5914) establishing a regular term of United States district court in Addison, W. Va.;

A bill (S. 6333) to divest out of the United States all its right, title, and interest of, in, and to certain real estate situated at and near the city of Montgomery, State of Alabama, and to vest the same in The Southern Cotton Oil Company, Bessie R. Maultsby, James S. Pinckard, trustee, M. V. B. Chase, and Edwin Ferris; and

A bill (S. 6461) providing for an additional judge in the district of Minnesota.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. 623) granting a pension to Susan Kennedy;

A bill (H. R. 4923) granting a pension to William L. Whetsell;

A bill (H. R. 7815) granting a pension to Nancy L. Killough;

A bill (H. R. 8152) granting an increase of pension to William S. Hutchinson;

A bill (H. R. 9658) granting an increase of pension to Robert Stewart;

A bill (H. R. 10826) granting an increase of pension to Josiah S. Fay;

A bill (H. R. 11197) granting a pension to the minor children of Daniel J. Reedy;

A bill (H. R. 11280) granting an increase of pension to Henry J. Feltus;

A bill (H. R. 12324) granting a pension to Cora E. Brown;

A bill (H. R. 12563) granting an increase of pension to Horace Fountain;

A bill (H. R. 12701) granting an increase of pension to Milton Noakes;

A bill (H. R. 13944) granting a pension to Margaret Ann West; and

A bill (H. R. 16224) granting an increase of pension to William Montgomery.

The message further announced that the House insists upon its amendment to the bill (S. 5835) granting an increase of pension to Joel C. Shepherd, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. LOUDENSLAGER, Mr. BROMWELL, and Mr. RICHARDSON of Alabama managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 16604) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1904, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HITT, Mr. ADAMS, and Mr. DINSMORE managers at the conference on the part of the House.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

[Mr. BURNHAM resumed and concluded the speech begun by him on the 21st instant. The entire speech will be found in the Appendix.]

Mr. BEVERIDGE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Alger,	Deboe,	Kean,	Proctor,
Bacon,	Depew,	Kearns,	Quarles,
Bate,	Dietrich,	Kittredge,	Quay,
Berry,	Dryden,	Lodge,	Rawlins,
Beveridge,	Dubois,	McCumber,	Scott,
Blackburn,	Elkins,	McEnery,	Simmons,
Burnham,	Foraker,	Mallory,	Simon,
Burrows,	Foster, Wash.	Martin,	Stewart,
Burton,	Frye,	Millard,	Taliaferro,
Clapp,	Gallinger,	Morgan,	Tillman,
Clark, Wyo.	Hansbrough,	Perkins,	Turner,
Clay,	Jones, Ark.	Platt, Conn.	Warren,
Cullom,	Jones, Nev.	Platt, N. Y.	Wellington.

Mr. SIMMONS. I desire to announce that my colleague [Mr. PRITCHARD] is absent on account of sickness.

Mr. QUARLES. I desire to announce that my colleague [Mr. SPOONER] is necessarily absent from the Senate.

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. There is a quorum present.

Mr. PLATT of Connecticut. Mr. President, there is one matter which has been brought to my attention about which I think those who favor the admission of Arizona as a State at this time ought to make some satisfactory explanation. What I say now I say more in the way of seeking information than of stating facts within my knowledge, but it has been asserted in the public press within very recent times that Arizona is engaged in an effort to repudiate some bonds which she ought to acknowledge and fund. If that be so, it would form, to my mind, an absolutely conclusive argument why Arizona should not now be admitted to statehood.

I do not assert that it is so, but, as I have understood from the press, and, indeed, from other information, the county of Pima, in Arizona, some years ago issued $150,000 of bonds to aid in the construction of a railroad. It voted to issue a much larger number of bonds, but before the work on the railroad ceased only $150,000 of bonds were called for. Those bonds were negotiated through the firm of Coler & Co., of New York, at the head of which is the Hon. Bird S. Coler, who was recently a candidate for governor of the State of New York, a gentleman whose character, of course, is beyond impeachment. The bonds were negotiated by this company, were sold all over the United States and in Europe, and are still outstanding.

Some time afterwards—and I think Senators will remember this part of the history—a memorial from the legislature of Arizona was sent here asking Congress to validate those Pima County bonds, it having been ascertained that they had been issued for railroad purposes when, according to the United States law, counties were only authorized to issue bonds for county purposes. The matter was presented here very strongly, as I remember it, and I remember hesitating about whether Congress ought to validate those bonds, but the Committee on Territories reported the bill favorably, and it was passed, validating those bonds.

About that time, either before or just after it, at the instance of the Territory of Arizona, an act was passed authorizing the funding into Territorial bonds of the indebtedness of the Territory and of county and municipal indebtedness, to be assumed by the Territory. So that up to this point we have the bonds validated and an act passed at the instance of the Territory of Arizona to fund those bonds into Territorial bonds, not authorizing it, but making it obligatory to do so.

Loan commissioners were appointed for that purpose, as I understand it, and they refused to recognize these bonds. Thereupon the bondholders brought suit, and the case was carried to the Supreme Court of the United States. It was decided in the one hundred and seventy-second volume of United States Reports, the contention being that they were not obligated for these bonds, because Congress could not validate them and make them legal bonds. The Supreme Court of the United States decided that the act validating them was effectual and good, and that the bonds were valid and legal bonds in the hands of the holders. The case was remanded to the courts of Arizona for further action in consonance with that opinion.

Then these loan commissioners set up some other objection to recognizing these bonds and funding them, one of which was that a certain act of Congress had repealed another act; and another was that the members of the loan commission had passed out of office after the decision of the Supreme Court of the United States, and therefore the then existing members were not bound by the decree of the court. That case has been argued in the Supreme Court of the United States and decided recently, but still these loan commissioners refuse to act; they are putting off action on one pretext and another, so that these Pima County bonds, which have been validated by Congress, which have been ordered by Congress to be refunded into Territorial bonds, which the Supreme Court of the United States has stated should be refunded into Territorial bonds, and which the supreme Territorial court of Arizona has directed to be refunded into Territorial bonds, are still outstanding, and no interest paid upon them.

Mr. HALE. May I ask the Senator a question right there?

Mr. PLATT of Connecticut. Certainly.

Mr. HALE. Who are the loan commissioners to whom the Senator has referred? Are they authorities of the Territory?

Mr. PLATT of Connecticut. So I understand.

Mr. HALE. Are they created by the Territory?

Mr. PLATT of Connecticut. I understand so.

Mr. HALE. And is their action against the payment of these bonds representing the Territory?

Mr. PLATT of Connecticut. So I understand.

Mr. BERRY. Mr. President, will the Senator from Connecticut permit me to ask him a question?

Mr. PLATT of Connecticut. If the Senator will allow me to finish my statement, so that it will be all together, I shall be glad to answer any question if I can. I am almost through.

The question I want to ask, Mr. President, is this, whether, in the admission of the Territory of Arizona as a State, we are going to enable what is believed to be an effort to repudiate these bonds to become successful? I know that in the omnibus bill there is a provision that the debts and liabilities of said Territory of Arizona shall be assumed and paid by the State, but the Territorial officers at this present time are repudiating the obligation of the Territory to fund those bonds, and they are not yet debts of the Territory. That is being resisted, as I have said, against the act of Congress, against the decisions of the Supreme Court of the United States, and against the decisions of the supreme court of the Territory of Arizona.

Does it not follow that if we admit Arizona as a State she will then be in a position to say these were not Territorial obligations at the time of admission, and the people holding these bonds, who, it is admitted, are innocent holders, have no redress? Now, I will yield to the Senator from Arkansas.

Mr. BERRY. I have heard it alleged—I do not know whether it is true or not, so I ask the Senator for information—that the railroad for which these bonds were issued was never built. Is that true or not true?

Mr. PLATT of Connecticut. A portion of it was not built; it was never entirely built, as I understand it—and I am asking rather for information myself than making any statement upon my own information which I can vouch for—but I understand the whole road was never completed. That whole question, however, was raised in the first case that came to the Supreme Court as a reason why these bonds should not be recognized. The court passed upon that specifically, and held that it made no difference

as to the validity of the bonds whether the road was completed or not. You will find that decision in the one hundred and seventy-second volume of the United States Reports. It is the case of Utter *v.* Franklin.

Mr. HALE. The money was raised on the bonds?

Mr. PLATT of Connecticut. Certainly it was.

Mr. HALE. There is no question as to that?

Mr. PLATT of Connecticut. None whatever.

Mr. HALE. And paid over in good faith?

Mr. PLATT of Connecticut. Certainly.

Mr. HALE. And, whether it was appropriated and used for the completion of a railroad or not, the localities had the benefit of it?

Mr. PLATT of Connecticut. The fact was this, as I understand: When so many miles of road had been completed, $50,000 of bonds should be issued; when so many more miles of railroad were completed, $50,000 of bonds should be issued; when another similar stretch of road was completed, $50,000 more should be issued, making a hundred and fifty thousand in all, and the company, or somebody, was unable to complete the road as had been anticipated.

Mr. HALE. But the money was paid in?

Mr. PLATT of Connecticut. Certainly.

Mr. BERRY. Will the Senator from Connecticut permit me to say one word more in answer to the Senator from Maine? He says the community got the benefit of it. I do not know all the facts in the Arizona case. I simply know that it is a case where the railroad got the bonds and failed to build. I know of cases in the Southern States, and in the State of Missouri especially, where bonds were issued, fraudulently issued, and sold to innocent parties, perhaps—at least they claimed to be innocent; they were not innocent in point of fact, as I believe—and where counties were charged with hundreds of thousands of dollars for a railroad not one foot of which was ever built in the locality. Yet the United States Supreme Court has rendered judgment in favor of the bondholders; and in one noted case in Missouri the local officers have been imprisoned for a number of years in an effort to force them to pay what would absolutely bankrupt the county—bonds that were issued in the days gone by, and where not one foot of railroad was ever built and where no locality received any benefit from it.

If these be bonds of that kind, it seems strange to me that Senators should stand on this floor and object to the admission of a Territory because they think that perhaps after it gets to be a State it will not pay bonds of that character. From my standpoint, if that be this class of bonds, and I do not know that it is, it would be a very strong reason why I would vote to make it a State.

Mr. CLARK of Wyoming. Will the Senator from Connecticut yield to me for a question?

Mr. PLATT of Connecticut. Certainly.

Mr. CLARK of Wyoming. I should like to ask the Senator if he has made up his mind as to what would be the effect upon these bonds of the admission of Arizona as a State; and if he has so made it up, I would ask him to give us the benefit of his judgment, in which we all have great confidence. The question I want to put is this: Will the change from a Territorial to a State government make any difference in the liability, for which the property of the Territory has become responsible, for an indebtedness already against it, if it has been or shall be declared to be a bona fide, actual, subsisting indebtedness?

Mr. PLATT of Connecticut. I am sorry not to be able to answer absolutely and accurately and conclusively in my own mind all the questions that are asked about this matter. I stated when I brought this subject to the attention of the Senate that I did so in order that those who were seeking the admission of Arizona as a State might give the Senate complete and full information on the subject.

Mr. CLARK of Wyoming. I was asking for the judgment of the Senator himself, he having evidently considered the matter.

Mr. PLATT of Connecticut. I confess, Mr. President, that I do not see how the new State, under the existing condition of things and before these county bonds should have been actually recognized as a Territorial obligation, would be bound to pay them as an obligation of the Territory.

Mr. McCUMBER. I should like to ask the Senator a question. Do I understand that these bonds have already gone into judgment against the county issuing them?

Mr. PLATT of Connecticut. I can not answer the question.

Mr. McCUMBER. I understand that the only way in which the court could pass on them—and I understand the court has declared that they are valid—is by an action brought on the bonds, and of course that action must have been against the makers of the bonds.

Mr. PLATT of Connecticut. I think so.

Mr. McCUMBER. If that be true, then if there is a judgment against any county in that Territory how will the fact that the Territory is admitted as a State prevent the issuance of a mandamus against the officers of that county requiring them to levy the proper tax to pay the judgment?

Mr. PLATT of Connecticut. As I said, I am merely stating this matter in order that the facts may, by some one who knows them, be fully explained to the Senate. My recollection is that the case which was brought was an application for a mandamus against the loan-fund commissioners requiring them to acknowledge these bonds as valid bonds. That, I think, is the nature of the case which was brought and came into the Supreme Court of the United States, but I am not absolutely certain of that.

Mr. McCUMBER. But in either instance the Senator does not think that changing the status of a Territory from a Territorial form of government to a State would change the liability of it, does he?

Mr. PLATT of Connecticut. I believe, Mr. President, that the people of Arizona, represented by its officers, think that it will, and they intend to put this off until, as they hope, Arizona may be admitted, and then to set up the defense that it does.

Mr. JONES of Arkansas. I should like to ask the Senator from Connecticut a question.

Mr. FORAKER. Mr. President——

Mr. JONES of Arkansas. I wish to ask the Senator from Connecticut if it is a fact that the Supreme Court of the United States has at any time declared that these bonds were fraudulent?

Mr. PLATT of Connecticut. It has not. On the other hand, it has declared that they are valid.

Mr. JONES of Arkansas. My impression was that the first decision rendered by the Supreme Court was that the bonds were invalid; that they were fraudulent and void.

Mr. PLATT of Connecticut. Not at all.

Mr. JONES of Arkansas. But that by reason of some act of Congress afterwards passed it was held by the Supreme Court, in a subsequent decision, that they were good.

Mr. PLATT of Connecticut. I think not, Mr. President.

Mr. FORAKER. The Senator from Arkansas [Mr. JONES] has anticipated what I desired to say in answer to the Senator from Connecticut. The Senator from Connecticut has been only partly informed, if I have not been misinformed. My information is that the county of Pima did issue some bonds to aid in the construction of a railroad. They were issued by the county of Pima, but the liability upon those bonds was resisted. It went into the courts. The case came in due time to the Supreme Court of the United States, and the Supreme Court of the United States held that there was no liability, because the bonds had been illegally issued.

Thereupon representatives of Arizona came here to Congress, and they succeeded in securing the enactment of the legislation to which the Senator from Connecticut has referred, according to which legislation the Territorial government was required to assume and pay the obligations of counties arising in this manner.

Subsequently there was litigation as to that, and then, in due course, there was rendered by the Supreme Court of the United States the decision to which the Senator has referred, to the effect that under that legislation the Territorial government had become liable. That decision was rendered only quite recently, and it is not being resisted. On the contrary, I am handed a telegram which has been received only to-day by the Delegate who represents Arizona in the House of Representatives. It is from the ex-attorney-general of Arizona, who was one of the counsel in this case, as I am told. I will read it:

Hon. M. A. SMITH,
House of Representatives, Washington, D. C.:

The only open question as to funding Coler bonds is whether the mandate of the United States Supreme Court includes payment of compound interest upon the interest coupons. This is the fault of his attorneys. No obstruction otherwise.

WILLIAM HERRING.

Mr. President, I am not acquainted with the details of this matter. It never occurred to me that even if the officials of a county should maladminister its affairs, and should improperly resist the payment of bonds which they had caused to be issued, the people of the whole Territory would be condemned as unfit to come into the Union of States; that they would be regarded as unfit to be treated as citizens of the United States and to be accorded State government.

It seems to me that the Senator from Connecticut is going a long way when he undertakes to arraign a whole people—a people who, it has been said by those opposing this measure, are as intelligent as any people that can be found in the United States, a people who are out there struggling to build up a Commonwealth, and who have accomplished that which excited the admiration and compliment of even the committee that visited them——

Mr. HALE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Maine?

Mr. FORAKER. Certainly.

Mr. HALE. I see the force of the Senator's point, that the people of the whole Territory should not be made accountable for the acts of the inhabitants of a single county. But the Senator's statement itself shows that by the action of Arizona this matter passed from the consideration of the people of Pima County, and that on the motion of the people of Arizona Congress interposed and made it a Territorial matter and validated the bonds, not as Pima County, but as Territorial obligations, and that the Territory should assume them. So if there is anything in the point made by the Senator from Connecticut that the loan commissioners are delaying and holding off and declining to admit this liability, it is that the action of the loan commissioners is not the action of this one county, but of the Territorial government and of the inhabitants of the Territory.

The point, as I understand, is that under the provisions of this bill if the Territory is admitted as a State it assumes the Territorial obligations. There is delay and resistance and refusal to recognize them, not as county obligations, but as Territorial obligations. So the Senator's point that we are punishing a Territory for the act of the inhabitants of a county entirely falls. It has ceased to be a county matter, but is a matter of the entire Territory. Is not that the fact, I ask the Senator from Connecticut?

Mr. FORAKER. I hope the Senator from Maine will not settle it conclusively against me by appealing to some one on his own side to confirm it.

Mr. HALE. I was going to ask whether that is not the Senator's point.

Mr. FORAKER. That is what the Senator was doing.

What I wish to say in answer to the Senator's contention is that originally this was admittedly the liability of only one county, if it was the liability of anybody. It was not the liabilty of the Territorial government. It was not the liability of the people of the Territory. It was not the liability of any town or any municipality in Arizona, outside of the one county that had issued the bonds, and the Supreme Court held that it was not the liability of that county, but that the bonds had been unlawfully issued. That is something which is not peculiar to a frontier country. Matters of that kind sometimes happen in the old States, and they are liable to happen even in New England.

Mr. TILLMAN. Mr. President——

Mr. FORAKER. Now, when it has been held by the Supreme Court that there was absolutely no liability whatever, then the holders of the bonds came to the Congress of the United States and secured legislation which was characterized by the Senator from Minnesota [Mr. NELSON] in his speech the other day as of a most extraordinary and unusual character. I can not recall the exact language, but he commented on it most severely. It was legislation whereby the obligation of a county was saddled on the whole Territory.

Is it any wonder that the people of Arizona, who had never contracted this debt, should object and resort to the courts and seek to escape such a liability? It was their duty to do it—a liability which was saddled upon them because of the unlawful action of the representatives of one county. They would not have been justified, as we ordinarily regard such matters, in paying until they had put it to the test. Now, it turns out they were in error about it; that under the act of Congress they had become liable. I have not looked up the case, and am speaking upon information which has just been given me.

But I understand that through one court after another, until the Supreme Court of the United States was reached, that question was contested. The Supreme Court having decided that it was competent for Congress to impose upon the Territory of Arizona this liability of this one county, although unlawfully contracted, they say "that is the end of it; we are now preparing to pay it; there is no further resistance." And so it has become, by reason of this legislation of Congress and the decision of the Supreme Court, the debt of the Territory, and, being the debt of the Territory, it is provided for in this bill. And there can not be, and there is no disposition that there should be any longer any contention or delay in its payment beyond that indicated by the telegram I have read.

Mr. HALE. But I understand this movement upon Congress to validate these bonds and make them obligatory upon the Territory came from the Territory itself. The Senator says that the holders of the bonds came to Congress and involved the Territory. The movement, as I understand, was not from the holders of the bonds, but from the authorities of the Territory itself, asking that the Territory be made responsible.

Mr. FORAKER. If the Senator will allow me, I have not the record. I supposed it was the holders of the bonds who had asked that somebody might make the bonds good to them.

Mr. HALE. It came from the Territory itself.

Mr. FORAKER. Then if it was the people of Arizona who asked Congress to saddle it upon them in order that they might lawfully pay it, is it not highly creditable to the people of the Territory?

Mr. HALE. Undoubtedly.

Mr. FORAKER. Certainly.

Mr. HALE. But it disposes of the point of the Senator from Ohio that the bondholders themselves came here.

Mr. FORAKER. I supposed it was the bondholders, and I am informed that it was the bondholders primarily.

Mr. TILLMAN. I am just trying, if I can get any light, to find out how it is that when the Supreme Court has declared certain obligations to be fraudulent, anybody can validate them. That is the question. How can anybody, even Congress, validate a bond that has been issued fraudulently?

Mr. RAWLINS. Mr. President, this objection seems an entirely new one to the admission of Arizona as a State. The proposition as made by the Senator from Connecticut is——

Mr. FORAKER. Will the Senator from Utah allow me to ask the Senator from Connecticut to cite again the case he spoke of as being reported in 172 United States?

Mr. PLATT of Connecticut. It is the case of Utter *v.* Franklin, to be found on page 416 of 172 United States.

Mr. FORAKER. I am obliged to the Senator.

Mr. RAWLINS. The proposition is that it has been claimed by certain bondholders that the Territory of Arizona is obligated to pay their bonds. The bonds were originally issued fraudulently by a county in Arizona.

Mr. PLATT of Connecticut. I beg pardon, Mr. President. The bonds were not issued fraudulently. It is so stated on the floor; but before we get through with the matter I will show that there was no fraud in the issue of the bonds.

Mr. RAWLINS. I used the word "fraudulent" in the sense of illegality, at least.

Mr. HALE. The trouble with the bonds was not—and it was never claimed that it was—that they were fraudulent; but, as in many other cases, they were validated in order to avoid mere technicalities. It never was contended that the bonds were fraudulently issued.

Mr. BATE. May I say a word?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Tennessee?

Mr. RAWLINS. In one moment I will be glad to yield.

The point I desire to make is, that the county of Pima, Ariz., issued these bonds without any lawful authority to do so, and the bonds were void upon their face, because the county had no authority to issue bonds for any other purpose than a county or a public purpose. To issue bonds for the construction of a railroad was beyond the powers of the county; and therefore the bonds were void. Upon the original consideration and under the law as it existed at the time they were issued, there was no liability against this county or against the Territory of Arizona, either legally, equitably, or morally.

Now, the next step in the matter seems to have been this: Somebody interested in obtaining the validation of these bonds went to the Territorial legislature of Arizona when it was in session, and through the influence of bondholders and the then Territorial governor of Arizona an application was made formally through the legislature to Congress to validate these bonds. Upon what representation did the Territorial legislature take this action? This matter has been before Congress heretofore, when the question was up whether these bonds should be validated by Congressional action. The inducement, as I am informed—and the information I have upon the subject I believe is correct—was that the people who held the bonds would not only construct this railroad but would extend it in such a manner that it would be of public advantage to the Territory of Arizona. Upon the faith of this representation by the men who held these bonds the Territorial legislature made application to Congress to ratify the bonds, the new consideration being a promise which I am informed never has been fulfilled.

But one other point in connection with this matter which throws some light upon it, to my mind, is that the brother of the then Territorial governor, a Federal appointee, was the party who made the promise for the construction or extension of this railroad to the public advantage of the Territory, and the governor, a Federal appointee, used his influence to induce the members of the legislature to make this application to Congress. An application was made, and Congress validated these bonds.

Mr. HALE. The Senator means that the governor of the Territory coerced the legislature of the Territory into making this application.

Mr. RAWLINS. I did not so state.

Mr. HALE. Does the Senator deny that the legislative authority of the Territory, as it then existed, representing the whole Territory, invoked the intercession of Congress to validate these bonds?

Mr. RAWLINS. What I said, and I do not think it can require

any explanation, is that the bondholders obtained the good offices of the brother of the governor and the influence of the governor himself to induce the legislature of Arizona to apply to Congress for the validation of these bonds.

Mr. HALE. Does the Senator mean to say that the constituent element that makes up legislatures in Arizona makes them up in such a fashion that the brother of a governor coerced them into that act?

Mr. RAWLINS. I did not say——

Mr. HALE. Because if that is the situation and the condition of Arizona, the larger responsibilities that the legislature has imposed on it the worse it is for the Territory. I should not want to be responsible for the statement that the brother of the governor induced the legislature to go into this proposition. That is a reflection not so much upon the brother of the governor or the governor as it is on the legislature itself.

Mr. RAWLINS. Mr. President, if the Senator from Maine will permit me, I have not said that the governor or the brother of the governor coerced the legislature of Arizona. I imply nothing more than what would occur if I should say the President or the brother of the President used influence upon the Republican side of the Senate to obtain action which was approved by the President. The members of the legislature in Arizona are elected by the people, and the proposition which I stated and the information which I have had upon the subject is that the members of the legislature were induced to make the application to Congress for the validation of these bonds upon the promise that the bondholders and those who were representing them would cause the extension and construction of this railroad which they originally undertook to construct and for which construction these bonds were originally issued.

I am informed that that promise, upon which this representation was made by the legislature to Congress, has not been fulfilled, but Congress took the action, the bonds became valid, and have been so declared by the Supreme Court of the United States. Then these bonds are a part of the debts and liabilities of the Territory of Arizona. They stand precisely upon the same footing as any other debt or obligation of the Territory of Arizona. This bill expressly covers that case in the clause which provides:

> Said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of the said State: * * *
> Third. That the debts and liabilities of said Territory of Arizona shall be assumed and paid by said State.

Mr. President, nothing can be more explicit than that. The people of Arizona, represented in convention, are to solemnly pledge themselves by ordinance, irrevocable in form, to recognize and provide for the payment of these bonds. There is no information here furnished by any Senator that the State does not intend to fulfill this obligation.

Mr. QUARLES. If the Senator will permit me, right at this point I should like to have the opinion of the distinguished Senator regarding that legislature which thus saddled upon the people of the whole Territory a fraudulent issue of bonds, and as to the propriety of conferring upon it unlimited power as to the creation of indebtedness, as he would do by statehood?

Mr. RAWLINS. When the Senator asks me my opinion as to the propriety of this action, I might turn and ask the Senator as to the propriety of our action in Congress. Full, sovereign legislative authority over this Territory is vested in Congress. Congress legislates in respect to the Territories, upon the information it possesses, as an original authority, and is supposed to make inquiries as to the merits or demerits of any proposition which may be presented to it for consideration. If the action of the Territorial legislature in ratifying these bonds is a reflection upon the personnel of that legislature, it is equally a reflection upon the personnel of the Congress of the United States. The members of this legislature, as the representatives of the people of the Territory, have at least shown the same degree of fitness to deal with public questions, with public obligations, as did, in this instance, the Congress of the United States.

I should like to know why the Senator from Maine and the Senator from Wisconsin rise here and impute dishonesty or incapacity to the members of the Territorial legislature for doing the very thing which they themselves have voted to do as members of the Congress of the United States.

Mr. HALE. The Congress did what it frequently does. Upon the solicitation of the authorities of the Territory——

Mr. BERRY. On the solicitation of the bondholders.

Mr. BEVERIDGE. No, sir.

Mr. HALE. Congress was not in possession of the entire facts. Congress had to depend upon somebody for a true statement of the situation in passing an act that would authorize not the validating of fraudulently issued bonds, but the validating of bonds which by a technicality had exceeded the authority of the county that issued them.

Now, that happens every day. The Senator himself knows of matters from his own State. Legislatures of States and Territories have beset Congress—I may use the word "beset," perhaps, because they are sometimes very importunate—and the conditions and the facts are taken from the legal representatives of the Territories who come here. We have to act upon information. We find afterwards—I did not know it until it was stated here—that Congress acted upon the legislative movement of the Territory that was induced, and persuaded, and perhaps coerced by a brother of the governor. If that is the way, I repeat, that the legislature were influenced in Arizona, they are not particularly competent to exercise the functions of a legislature of a State in the Union.

Mr. RAWLINS. Mr. President——

Mr. HALE. I did not bring it out. The other side brought it out. I never heard of this before.

Mr. FORAKER. If the Senator from Utah will allow me, I should like to make a suggestion there. It illustrates just what these people in the Territories want to escape from—the kind of government to which they are subjected. They did not choose their governor. He was sent to them by the President of the United States.

Mr. HALE. But they chose the legislature.

Mr. LODGE. It seems to me that it is the legislature.

Mr. FORAKER. They chose the local legislature, and I have a memorial here——

Mr. BEVERIDGE. And they chose their Delegate.

Mr. FORAKER. Will the Senator allow me?

Mr. HALE. I will yield in a moment. I am very glad to hear the suggestion made by the Senator from Ohio, who in the course of the whole debate has been extremely fair and, I may say, large in his consideration, that an added reason why we should admit Arizona is that her people want to escape from their legislature.

Mr. FORAKER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Ohio?

Mr. RAWLINS. I yield to the Senator from Ohio.

Mr. FORAKER. I will take only a moment. The Senator from Maine made reference to the governor of the Territory.

Mr. HALE. And the legislature.

Mr. FORAKER. The Senator was speaking particularly of the governor, as I understood it. I reminded him in that connection——

Mr. HALE. I was speaking of the legislature.

Mr. FORAKER. If the Senator will allow me, I will tell him what I understood and what I said. Then he can take the floor again. I do not want to unduly trespass on the time of the Senator from Utah.

I was making my suggestion in answer to the Senator's, which I understood to be that the governor had exercised an improper influence in the matter. Now, here is what the legislature of Arizona did in regard to this matter, if the Senator from Utah will allow me to put it in evidence.

Mr. RAWLINS. Certainly.

Mr. FORAKER. However, before I do that I want simply to recapitulate that these bonds were issued for the purpose of aiding a railroad. The payment of them was resisted on the ground that they were unlawfully issued and no railroad was ever built. The people of Arizona and the people of Pima County, as I am told, never got one dollar of value in return. The courts held that being illegally issued there was no liability. The Supreme Court of the United States so held; and it was after that that somebody induced Congress to pass a law validating invalid bonds. That is what was done.

Now, do you tell me that the bondholders had nothing to do with it? If so, who did have to do with it? The bondholders had a motive in coming to Congress to secure that kind of legislation. There was something to result to them of advantage on account of it. If the people of the Territory came to Congress and asked Congress to validate fraudulently issued bonds in order that they might be made liable to pay them, it was certainly a most extraordinary proceeding. I am assured to the contrary by one who lives in Arizona, who has a right to speak for Arizona, who claims to be familiar with the facts, and I have no doubt he is familiar with the facts.

I am told by him that it was, as I said a while ago, the bondholders who came to Congress and importuned the Congress and secured this most extraordinary legislation, for extraordinary it is, Mr. President, unusual to a high degree, for the Congress of the United States to undertake to say to the people of a Territory that a certain county within its limits has fraudulently issued securities for which the people have received no return; securities that purport to have been issued in aid of the construction of a railroad which has never been built, the proceeds of which securities have been pocketed, I am told, by a lot of thieves and scoundrels, and yet say that the people of that struggling Territory shall be compelled to pay them. In God's name, is it any

wonder that the people of that Territory are demanding that they be released from such a supervision and such a controlling legislative power? Can anybody wonder——

Mr. LODGE and Mr. BEVERIDGE. Mr. President——

Mr. FORAKER. I am not done; wait until I conclude.

Now, Mr. President, that is what Congress did. After Congress had passed that kind of an act, here is the kind of a memorial which was sent to Congress in that connection, and when I read it I think it will be seen that these people show that they are not only qualified to represent a Territory as a legislative body and protect its rights, but that they would do credit to any State in the Union. I can see no lack of ability, no lack of morality, no lack of statesmanship in this document. It is a memorial of the Territorial legislature sent in 1899 to the Congress from the Territorial legislature of Arizona, addressed to the Senate and House of Representatives.

It says:

Your memorialists, the legislative assembly of the Territory of Arizona, beg leave to submit to your honorable bodies—

And then they go on to recite numerous facts. I am not going to take the time of the Senate to read it all, but here they come to the Pima County narrow-gauge railroad bonds:

Whereas said bonds issued to said Arizona Narrow-Gauge Railroad Company were never acquired by said company in good faith, and were never sold by it in good faith or for a valuable consideration, and none of the interest on said bonds had ever been paid by Pima County, and the validity of said bonds had never been acknowledged by said county; and

Whereas the said Arizona Narrow-Gauge Railroad was never built and never existed, and Pima County has never received any consideration whatever for the said so-called bonds, and the entire scheme of the said bond issue was a fraud without any element of merit or good faith; and

Whereas all the foregoing facts were and are notorious, and within the knowledge of everyone who has ever had any dealings with said bonds, etc.

There, Mr. President, I have read enough to show the ground upon which this liability was resisted. Yet Senators come in here and in the name of assumed good morals tell us that these people are repudiators, not fit to come into the Union of States and have representation here alongside of the States they represent.

Mr. HALE. What were the memorialists in this case asking?

Mr. PLATT of Connecticut. May I ask the Senator from Ohio what he has been reading from?

Mr. FORAKER. I am reading from Senate Document No. 117, Fifty-fifth Congress, third session.

Mr. QUARLES. What is the prayer of the memorialists? What is it they ask?

Mr. PLATT of Connecticut. Is it a memorial of the legislature or is it a remonstrance against that memorial?

Mr. HALE. That is what I want the Senator to tell.

Mr. FORAKER. I am trying to call your attention to the facts. The Senator has told us why there was an appeal made by the Territorial legislature——

Mr. HALE. Mr. President, the Senator himself perhaps in his ardor gave rise to terms, and stated that the people of the Territory of Arizona wanted to escape from their legislature, to use his language. Now, no one on this side advanced that proposition or suggested that thought. I do not suppose the Senator is reading from the memorial of the legislature, because the Senator from Connecticut has the papers here, and the legislature——

Mr. FORAKER. I will read all of it in order that I may satisfy the Senator from Maine, if it is necessary. I was speaking at the expense of the time of the Senator from Utah, and therefore I was reading only what I conceived to be the salient points. I was answering as to the fact which was understood in Arizona, and which led to their resistance to the payment of these bonds.

Mr. HALE. The Senator prefaced by stating that he proposed to read from what he thought was a statesmanlike document of the legislature——

Mr. FORAKER. So I did.

Mr. HALE. And that he would prove that the legislature was statesmanlike in its attitude. Now, we have that memorial. Perhaps it is what the Senator has. If he has, he can readily state what it is. Is the Senator reading from the memorial of the legislature?

Mr. FORAKER. I am reading from a memorial that is signed Morris Goldwater, president of the council; Henry F. Ashurst, speaker of the house.

I hereby certify the within to be a true copy of house memorial No. 1.
W. D. BERRY, *Chief Clerk.*

Filed in the office of the secretary of the Territory of Arizona this 7th day of February, A. D. 1899, at 3.30 p. m.
CHARLES H. AKERS,
Secretary of Arizona.

Mr. HALE. Now we shall have the whole document from the legislature read.

Mr. FORAKER. I want to answer what the Senator has just said. I started out to show what the facts were leading to the resistance by the people of Arizona to the payment of these bonds. I undertook to show that these were bonds that were illegally issued, and in that behalf I cited the decision of the court, and the decision by the Supreme Court of the United States in 155 United States, in the case cited by the Senator from Connecticut [Mr. PLATT]. In 172 United States there is a citation of that case.

Mr. QUARLES. Will the Senator from Ohio yield to me just a moment?

Mr. FORAKER. Certainly.

Mr. QUARLES. Before the Senator from Ohio passes from that document, which was to establish the statesmanship of that local legislature, will not the Senator oblige the Senate by reading not the mere statement of facts, but the prayer of the memorial?

Mr. FORAKER. Why, certainly; I will read the whole of it——

Mr. QUARLES. In order that we may know what the legislature were desirous of doing.

Mr. FORAKER. I have no objection to reading the whole of it. I was reading enough for the purpose that I was seeking to subserve, namely, to controvert the proposition of the other side that these bonds had been issued, as the Senator from Connecticut said, in payment for a railroad.

Mr. PLATT of Connecticut. That is absolutely correct.

Mr. LODGE. It is absolutely correct. I have the statement of the Supreme Court here, which says that there was no evidence of bad faith whatever.

Mr. FORAKER. That is something I have not seen. I am talking about what I have before me, and I have before me this memorial, which states that the road never was built—not one particle of it—and why the payment was resisted.

Mr. PLATT of Connecticut. By whom?

Mr. FORAKER. Now the Senator from Wisconsin wants me to read the memorial. I will put the whole of it in the RECORD in order that Senators may have the benefit of it. They recite the facts to which I have already called attention. I will send it to the desk to be incorporated in the RECORD. It says:

TERRITORY OF ARIZONA, OFFICE OF THE SECRETARY.

UNITED STATES OF AMERICA, *Territory of Arizona, ss:*

I, Charles H. Akers, secretary of the Territory of Arizona, do hereby certify that the annexed is a true and complete transcript of the memorial to the Senate and House of Representatives of the United States of America in Congress assembled, praying for legislation to render invalid Pima County (Ariz.) bonds issued to the Arizona Narrow Gauge Railroad Company, which was filed in this office the 7th day of February, A. D. 1899, at 3.30 o'clock p. m., as provided by law.

In testimony whereof I have hereunto set my hand and affixed my official seal. Done at the city of Phoenix, the capital, this 7th day of February, A. D. 1899.

[SEAL.] CHARLES H. AKERS,
Secretary of the Territory of Arizona.

MEMORIAL.

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Arizona, beg leave to submit to your honorable bodies that—

Whereas a memorial was presented to your honorable bodies by the eighteenth legislative assembly of the Territory of Arizona regarding bonds issued by certain counties of said Territory, which memorial was intended to apply only to such bonds as had been bought in good faith, and interest on which had been paid, as stated in the aforesaid memorial; and

Whereas, in response to said memorial, your honorable bodies thereafter passed the act entitled "An act amending and extending the provisions of an act of Congress entitled 'An act approving, with amendments, the funding act of Arizona,' approved June 25, 1890, and the act amendatory thereof and supplemental thereto, approved August 5, 1894," approved June 6, 1896; and

Whereas, based on said memorial and act of June 6, 1896, the Supreme Court of the United States has recently rendered a decision tending to recognize the validity of certain bonds issued by Pima County, Arizona Territory, to the Arizona Narrow Gauge Railroad under the provisions of the act of the legislative assembly of the Territory of Arizona approved February 1, 1883; and

Whereas, before the passage of said memorial said bonds had been declared unauthorized and void by the district court of the first judicial district of the Territory of Arizona in and for Pima County, by the supreme court of the Territory of Arizona, and by the Supreme Court of the United States, in the case of Lewis *v.* The County of Pima, decided in the Supreme Court of the United States at its October, 1894, term; and

Whereas said bonds issued to said Arizona Narrow Gauge Railroad Company were never acquired by said company in good faith, and were never sold by it in good faith or for a valuable consideration, and none of the interest on said bonds had ever been paid by Pima County, and the validity of said bonds had never been acknowledged by said county; and

Whereas the said Arizona Narrow Gauge Railroad was never built and never existed, and Pima County has never received any consideration whatever for the said so-called bonds, and the entire scheme of the said bond issue was a fraud without any element of merit or good faith; and

Whereas all the foregoing facts were and are notorious, and within the knowledge of everyone who has ever had any dealings with said bonds; and

Whereas it was by all the members of the legislature passing said memorial, and by the governor of Arizona at the time, and by the then Delegate in Congress from Arizona believed that all of said bonds so issued by Pima County to the Arizona Narrow Gauge Railroad Company were res adjudicata by the said decision of the Supreme Court of the United States, and that none of the said bonds could be thereafter validated, and—

That is natural. That certainly is statesmanlike. When the Supreme Court of the United States had held that the bonds were absolutely invalid because illegally issued, without any consideration, and the proceeds, in so far as there were any, had been

stolen and misappropriated, they might very naturally think that it was not in the power of Congress or any other legislative body to validate such an obligation. But they were not then aware of the great and unrestricted power of this legislative body. Now they go on:

Whereas said memorial was intended to apply only to certain railway aid bonds of two other counties in Arizona, where the aided railways were actually constructed, and not to the said bonds so issued by Pima County, as to which none of the statements or reasons in said memorial applied, and which bonds were then, as now, believed to be without consideration, unjust, fraudulent, and void:

Therefore we most strongly urge upon the Senate and House of Representatives of the United States of America to pass such legislation as will exclude from the provisions of the act of Congress of June 6, 1896, and from any and all other legislation by Congress, the said bonds so issued by Pima County to the Arizona Narrow Gauge Railroad Company, so that neither said act of June 6, 1896, or any other act will be construed so as to validate the said bonds issued by Pima County. And it is further

Resolved, That our Delegate to Congress be, and is hereby, instructed to use all proper means to bring this subject to the careful and immediate consideration of Congress, in order to secure, if possible, from Congress such legislation as is prayed for herein; and that the secretary of the Territory be, and he is hereby, requested to transmit a copy of the foregoing memorial to each House of Congress and to our Delegate in Congress.

MORRIS GOLDWATER,
President of the Council.
HENRY F. ASHURST,
Speaker of the House.

I hereby certify the within to be a true copy of house memorial No. 1.
W. D. BERRY, *Chief Clerk.*

Filed in the office of the secretary of the Territory of Arizona this 7th day of February, A. D. 1899, at 3.30 p. m.

CHARLES H. AKERS,
Secretary of Arizona.

Now, Mr. President, I repeat that this is a memorial from the Territorial legislature of Arizona, addressed to the Congress of the United States. It is a memorial in which they profess to recite the facts. I am not familiar with them; I know them only as they are revealed by the Supreme Court Reports, which I have had time only to hastily scan, and what I have gathered from this memorial, and what has been told me here on the floor of the Chamber within the last hour. But from these facts and the information that has been given to me on the subject, the case is simply this: That as to the railroad mentioned for which these bonds of Pima County were issued, the fact is that no road was built.

They were fraudulently issued, and the Supreme Court of the United States, along with all the other courts that passed upon it, have so held. And the Supreme Court of the United States having so held, then the representatives of somebody came here. The Senator from Maine says it was the people of the Territory of Arizona and not the bondholders. If so, all the more credit to the people of Arizona, but it seems to me unreasonable. This disputes that fact. Somebody did come here, however, and induced Congress to pass an act saddling on the Territorial government a debt that had been unlawfully contracted. What wonder that the people of the Territory should refuse to pay until the court said that Congress could validly exercise that very arbitrary and tyrannical and oppressive power? I do not hesitate to say it.

There was, Mr. President, no debt here owed by anybody. The Supreme Court of the United States said so in the case reported in 155 U. S.

Mr. LODGE. Never.

Mr. FORAKER. They never said so? Let us see if they never said so.

Mr. HALE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Maine?

Mr. FORAKER. I will for a question, but I do not yield to the Senator from Maine for a speech just now.

Mr. HALE. I can ask a question on that. I think I am capable of doing that. Is this the memorial which the Senator from Utah says the legislature was induced to send by the brother of the governor?

Mr. RAWLINS. Mr. President——

Mr. HALE. That is a question.

Mr. FORAKER. What is the question the Senator asks?

Mr. HALE. Is this the memorial which the Senator from Utah says the legislature of Arizona was induced unwillingly to send by the machinations and intrigues of the brother of the governor?

Mr. FORAKER. I heard no such statement. I was not in the Chamber while the Senator was speaking.

Mr. HALE. That is the only reason——

Mr. FORAKER. If he made such a statement, he made it in my absence. I know nothing about what induced the legislature beyond the facts recited. They certainly were sufficient.

Mr. HALE. But the Senator from Utah stated——

Mr. FORAKER. The Senator from Utah can answer the question.

Mr. HALE. He says they were induced——

Mr. RAWLINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Utah?

Mr. FORAKER. I yield that the Senator from Utah may answer the question.

Mr. RAWLINS. Now, Mr. President, if I may be permitted to respond to the question which was addressed to me by the Senator from Maine, in the first place I want to say I did not state that the legislature of Arizona had been coerced by anybody.

Mr. HALE. Induced.

Mr. TILLMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from South Carolina?

Mr. RAWLINS. Mr. President, I will conclude in a minute.

Mr. TILLMAN. I thought while the Senator was looking for the cases, I would ask a question or two, but of course I do not want to intrude on his time.

Mr. RAWLINS. I will be glad to respond to the Senator presently, but I want to answer one or two things.

Mr. President, perhaps the Senate ought to know what the legislature of Arizona actually did in the way of importuning Congress for this validating legislation. I have the memorial before me. Before I read it I will make the premise that the governor of Arizona was a Federal appointee and for him the people of the Territory were not responsible. They were not responsible for his relatives. The Territorial legislature had, as a matter of fact, passed various acts authorizing certain counties to issue bonds in aid of the construction of railroads.

Mr. LODGE. May I ask the Senator——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Massachusetts?

Mr. RAWLINS. In one moment.

Mr. LODGE. I only wanted to get the date straight. Those authorizing acts to the counties were long before the memorial.

Mr. RAWLINS. That is what I was proceeding to state. The authorizing acts of the Territorial legislature were long before the memorial, and in pursuance——

Mr. LODGE. Was there a brother of the governor going then——

Mr. RAWLINS. The various counties undertook to exercise this authority under the acts which the legislature had passed. Pima County issued the bonds in question, which were without consideration and void. Thereupon the legislature of Arizona adopted this memorial to Congress:

Your memorialists, the legislative assembly of the Territory of Arizona, beg leave to submit to your honorable bodies that

Whereas under various acts of the legislative assembly of the Territory of Arizona certain of the counties of the Territory were authorized to issue in aid of railroads and other quasi public improvements and did under such acts issue bonds, which said bonds were sold in open market, in most instances at their face value, and are now held at home and abroad by persons who, in good faith, invested their money in the same, and, save and except such knowledge as the law imputes to the holder of bonds issued under authorized acts, are holders of the same; and

Whereas the validity of these bonds for many years after their issuance was unquestioned and acknowledged by the payment of the interest thereon as it fell due; and

Whereas there has recently been raised a question as to whether these acts of the legislative assembly were valid under the organic law of the Territory, which had led to movement looking to the repudiation of the indebtedness created under and by virtue of such acts; and

Whereas we believe that such repudiation would, under the circumstances, work great wrong and hardship to the holders of such bonds, and at the same time seriously affect the credit and standing of our people for honesty and fair dealing and bring us into disrepute:

Therefore we most strongly urge upon your most honorable bodies the propriety and justice of passing such curative and remedial legislation as will protect the holders of all bonds issued under the authority of acts of the legislative assembly.

And I call the attention of the Senator from Maine to this language as to what the legislature of the Territory then asked Congress to do:

Therefore we most strongly urge upon your most honorable bodies the propriety and justice of passing such curative and remedial legislation as will protect the holders of all bonds issued under the authority of acts of the legislative assembly, the validity of which has heretofore been acknowledged, and that you further legislate so as to protect all innocent parties having entered into contracts resulting from inducements offered by our Territorial legislation and relieve the people of the Territory from the disastrous effects that must necessarily follow any repudiation of good faith on the part of the Territory, and that you may so further legislate as to validate all acts of the legislative assembly of the Territory which have held out inducements for the investment of capital within the Territory, and which have led to the investment of large sums of money in enterprises directly contributing to the development and growth of the Territory, and thus relieve the honest people of the Territory from the disastrous effects that must necessarily follow any violation of good faith on the part of our people.

Mr. President, what the legislature asked Congress to do was to validate bonds and obligations which had been issued pursuant to Territorial legislation in good faith, for which there had been consideration in the way of public improvements tending to the development of the Territory, and which obligations had been recognized by the payment of interest which had accrued upon the bonds; but that memorial in no degree applied to the Pima County bonds in question, for the reason that they had then been

repudiated; that no interest had been paid upon them; and that no consideration was ever parted with by those who held them.

Mr. PLATT of Connecticut. The Supreme Court, then, was mistaken?

Mr. LODGE. The Supreme Court stated that interest was paid on them.

Mr. RAWLINS. I mean to say at the time of the memorial——

Mr. LODGE. They say interest has been paid.

Mr. RAWLINS. These Pima County bonds were issued for the construction of a road which was never built. The charge is distinctly made in the memorial read by the Senator from Ohio [Mr. FORAKER] that the people who held those bonds did not pay for them any valid consideration. There was nothing done by those to whom the bonds were issued for the development of the Territory; there was no performance or part performance. This memorial grew out of all the circumstances of the situation.

Mr. LODGE. The Senator is mistaken about that.

Mr. RAWLINS. The memorial related to the county of Yavapai, which county had, under the authority of the Territorial legislature, issued bonds for a consideration, and the party who received the bonds proceeded in good faith to the construction of the road.

Some question was raised as to the validity of those bonds. It was then claimed by the legislature that if these obligations, which were incurred in good faith, and for which consideration had been given by the holders of the bonds, were repudiated, it would cast discredit upon the people of the Territory. Then it was necessary, under the circumstances, that the legislature take some action to restore that credit. Hence the legislature passed this memorial, the effect of which was to ask Congress to put beyond question the validity of the bonds for which consideration had been given, for which public improvements had been made, and upon which every consideration of equity demanded that the contract on the part of the Territory, or the counties in the Territory, should be fulfilled. But when this memorial came to Congress, thus limited, and not at all applicable to the Pima County bonds, it was Congress which passed the legislation, not solicited by the Territorial legislature, for the validation of those bonds in language broad enough, as it was held by the Supreme Court, to extend to the validation of the Pima County bonds.

But, Mr. President, is there anything in these circumstances which tends in any degree to show the unfitness of the people of the Territory of Arizona for admission into the Union?

Mr. BEVERIDGE. Will the Senator allow me to ask him a question for information?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Indiana?

Mr. RAWLINS. For a question only.

Mr. BEVERIDGE. I want to know whether or not the Delegate of the Territory asked Congress for this legislation?

Mr. RAWLINS. I know nothing about that.

Mr. BEVERIDGE. Of course, it has an important bearing, because if the Delegate elected by the people asked Congress for this validating legislation, that must be referred to the people who elected him. I do not know. I am asking for information.

Mr. RAWLINS. It may be important.

Mr. FORAKER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Ohio?

Mr. RAWLINS. Yes.

Mr. FORAKER. I wish to suggest that the Delegate from a Territory might be mistaken as to his duty or as to the performance of it.

Mr. BEVERIDGE. He might.

Mr. RAWLINS. I am informed, if the Senator from Indiana will permit me to answer his question, that the present Delegate from the Territory has resisted this legislation throughout, as it extended beyond the purpose of the memorial.

Mr. BEVERIDGE. I ask as to the Delegate at that time?

Mr. RAWLINS. I know nothing about that, and so can not answer.

Mr. BEVERIDGE. The Delegate before the present one was a private citizen before he was a Delegate.

Mr. QUARLES. Will the Senator permit me to ask him for the respective dates of these two memorials?

Mr. RAWLINS. I can not state at this instant.

Mr. FORAKER. The memorial I read from—I did not know there was any other when I read it—is dated "February 7, 1899, at 3.30 o'clock p. m." [Laughter.]

Mr. LODGE. The other was dated 1898—the year before.

Mr. RAWLINS. I do not know that the exact date is necessary, but I find, in compliance with this memorial, that Congress, on the 6th day of June, 1896, passed an act for the validation of these obligations. I think the memorial which I have just read to the Senate was adopted in 1895.

But, Mr. President, it is claimed, and no longer disputed, in view of the decision of the Supreme Court, that these Pima County bonds, by reason of the action of Congress, with which the Territorial legislation had nothing to do, have become a binding obligation upon the people of the Territory. I have already read the bill which is proposed by the Territory, embodying the conditions under which it will come into the Union. If they are admitted under this bill, they propose to pay all debts and obligations of the Territory, which of course would now include the bonds in question. The people of the Territory of Arizona can not do more than that. They make this solemn pledge in the form of an ordinance, irrevocable in character, that they will pay these bonds, originally fraudulent and illegal, validated, not by any act of their own, but solely by the authority of Congress.

They make this concession to fraud and dishonesty; they make this concession to the appeals of Senators here, that unless the bonds, for which no consideration was parted with, illegal in their inception, be paid, the people of this Territory, otherwise fit for admission into the Union, shall be denied that boon.

Because here has been a controverted question whether the Territory should be saddled with the payment of a debt for which they received no consideration, and have seen fit to litigate it in a legtimate and lawful way, it being a debt created by the action of Congress, and not by reason of any demerit in their case, now when they come here and say "We will pay, in order to gain admission, this, with other debts and obligations, solemnly pledging ourselves to do so," it would seem there would be scarcely longer any reason to be imputed to those people why they shall not be admitted into the Union as a State.

Mr. President, this is nothing but an obligation against the Territory. These bondholders can not recover by suit against the Territory any more than they could recover against the State. The condition of the holders of these fraudulent bonds will in no degree be made worse after the admission of the Territory as a State than before admission. This, it seems to me, which has been presented by distinguished Senators as the crowning and conclusive argument upon which the other side rest their case against the admission of the Territory, falls to pieces.

These pioneers out in the remote counties in Arizona, struggling to build up their homes, desiring access to the rest of mankind by the construction of railroads, have doubtless held out inducements to people who in good faith would undertake to render to them such services. They have never raised any question about the validity of any bonds where the railroad had been constructed—where the parties receiving aid have proceeded in good faith to fulfill their part of the obligation.

Certain parties held out inducements to the people of Pima to issue bonds. Thereupon those parties failed utterly to comply with their part of the contract. They ought to be shut out of court, and they would be shut out, as they were shut out under the first decision of the Supreme Court of the United States, but the people of that Territory find interposed between them and their rights an act of Congress validating not only those bonds which they desire to recognize, but illegal and unauthorized bonds. Now, will it be said that so long as there is any question about some claim as to whether it is meritorious or not, fraudulent or legal, between Arizona, or Oklahoma, or New Mexico and some person making some fictitious or even a meritorious claim against them—until every disputed claim in respect of obligations of any one of these Territories is finally settled and the money paid—that no one of them can be admitted as a State? If that were true, no Territory would have been admitted as a State in the past.

These Territories proceeded to make application to come in, not precisely on the same conditions which have been presented and conceded to every other Territory knocking for admission into the Union——

Mr. DEPEW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from New York?

Mr. RAWLINS. I yield for a question.

Mr. DEPEW. A statement and a question. I want to see whether I am correct. I know nothing about this matter except what I learn from the discussion to which we have been listening; but if I understand the documents which were read a moment ago, the memorial read by the Senator from Utah [Mr. RAWLINS] and the memorial read by the Senator from Ohio [Mr. FORAKER], together with the legislation which has been referred to, this is the historical condition: The council or legislative assembly of Arizona, in the memorial which the Senator from Utah has read, petitioned Congress to pass these validating acts. The memorial is very strong as to the reasons why, namely, that on account of certain repudiation the credit of the Territory of Arizona was seriously affected, as was also that of various counties in the Territory. After acting upon that memorial, Congress passed a validating act. Then came the litigation in court; then the court sustained the bonds; and then came the second memorial, asking

Congress to repudiate the bonds which the court had validated under the act of Congress. Is that correct?

Mr. RAWLINS. Mr. President, the chronology of the Senator is not correct. These particular bonds were issued without authority, without consideration; but other bonds were issued for which there was consideration, which had been recognized by the Territory and by counties in the Territory. The legislature memorialized Congress to validate those bonds for which consideration had been received. Congress validated all bonds, including those for which no consideration had been given. The legislature then memorialized that Congress had not complied with their request, but had gone beyond it and undertaken to validate bonds for which no consideration had been given, which were illegal and fraudulent, namely, these Pima County bonds, and asking Congress to modify and correct the action which it had originally taken.

In the meantime the bondholders had taken into court the bonds originally invalid, and which became valid by reason of the action of Congress. Ultimately the Supreme Court of the United States, very recently, has held that those bonds were valid because Congress had validated them. So the Senator from New York will perceive that the situation is that the Territorial legislature memorialized Congress to render its aid in order that equitable and just debts might not be repudiated. Congress went beyond that request and validated bonds for which there was no legal liability and no equitable liability on the part of the Territory or of any county in it. Congress failed to correct its former action in this regard, and now Senators say that by reason of the fact that the legislature had been induced to memorialize Congress, requesting Congress to take this action, the people of the Territory have shown their unfitness for statehood.

The Senator from Maine [Mr. HALE] said that Senators and Members of the House of Representatives are compelled to rely upon the information which they receive from the local legislature and from the Delegate representing the Territory. Mr. President, that in a measure is true, but we find when we look to the information that was communicated to Congress by the Territorial legislature that that communication did not ask for the validation of the Pima County bonds, nor did they come within the general description of the obligations which it was sought by the Territory to have approved by Congress. Hence Congress was not induced by any representation of the Territorial legislature to validate the Pima County bonds.

Who were interested especially in having those bonds validated? Unquestionably the bondholders. Who represents the bondholders? No citizen of Arizona, but, as we are informed, a distinguished citizen of the State of New York. No one has any objection to his representing his clients and insisting upon the performance of any legal obligation which may have been incurred by the people of Arizona; but we are assured by the public press that he has come here to Washington, has interviewed the President of the United States, and has made a declaration somewhat similar to that of Germany to Venezuela: "We will blockade your ports; we will shut you out from the Union; we will deny to you the political privilege to which you are otherwise entitled until you go down into your pockets and pay these obligations"—obligations originally fraudulent, for which the men who hold them, for whose benefit they have been incurred, made no payment and parted with no consideration. "You must pay these bonds or our potent influence"—the potent influence of the bondholders and their representatives in New York—"will see to it that no right is accorded to the pioneers away out in the Territory of Arizona."

I think the intention of Congress has been rather directed to the importunities of the representatives of the bondholders from the State of New York than to the representatives of the people of Arizona coming here to ask, not that fraudulent claims be recognized, but that equitable and just obligations be not repudiated.

We have discovered now, it seems, precisely the objection and the ground upon which all business in the Senate is to be arrested. We have discovered the ground now by reason of which we are to have a filibuster to prevent a vote upon the question of the admission of any one of those Territories into the Union. At last it has come to light, through the Senator from Connecticut [Mr. PLATT] and the Senator from Maine [Mr. HALE], that the fundamental and constitutional and moral objection, overwhelming in character, to the passage of this bill is that the holders of some one hundred thousand dollars' worth of fraudulently issued bonds must have their money upon their fraudulent, illegal paper, validated only by the unjust action of the Congress of the United States.

Mr. ALDRICH. Will the Senator allow me to ask him a question?

Mr. RAWLINS. Certainly.

Mr. ALDRICH. Does the Senator think, under the circumstances, that the Territory of Arizona would have a right to repudiate those bonds?

Mr. RAWLINS. I have already answered that the Supreme Court have held that these bonds, illegal in their inception, for which the holders parted with no consideration, are valid and binding debts and obligations of the Territory; but under the act which the Territory presents to us, embodying the conditions upon which she asks admission, she declares that she will by ordinance, irrevocable in form, undertake the payment of all debts and obligations of the Territory, including these bonds.

Mr. ALDRICH. But does the Senator think the Territory is morally or equitably bound to pay those bonds?

Mr. RAWLINS. I certainly think that the Territory, if I am correctly informed as to the facts, is not equitably, is not morally, but is legally bound to do so, because the Supreme Court of the United States has so declared by reason of the action of Congress, which was authorized, having full power to legislate in all respects whatsoever as to a Territory. We have the power to declare, and without their consent, that the people of Pima County or the people of the Territory of Arizona should pay $100,000 or $100,000,000 for which they had received nothing. We have done it, and that is the end of it. That is the end of the controversy. We have the power, the mere power, not founded in equity or justice, but the absolute, uncontrolled power, because the plenitude of our powers in respect to a Territory is no longer questioned. We have the power to say, and we did say, to the people of Arizona: "Pay this $100,000 to the men who procured this paper, worthless in its inception, for which they made no payment whatsoever, for which they parted with no consideration whatsoever." It is not an equitable, it is not a moral, but it is a legal obligation; and the people of the Territory, recognizing that it is legal and that they can not escape it, bow to our edict, founded in injustice, and say: "We will pay this, too; but clothe us with the habiliments of statehood and enable us to have a voice in the legislative council of the nation, in order that no further iniquity of this kind and wrong shall be perpetrated upon us."

Mr. President, this is an argument which ought to be conclusive to reasonable minds why these Territories ought to be admitted. There is a case where the Supreme Court originally held that these bonds were void, worthless. After that decision Congress says that they are valid and binding obligations upon the people of the Territory; and the Supreme Court says: "The sovereign, uncontrolled power, Congress, has acted, and its edict must be obeyed. You helpless people of the Territory must now pay this debt for which you received no consideration." That is the pitiable condition of the people, the pioneers, who are held in subserviency in the Territories, and it is of that character of people out of which this great Government has been constructed and built up and out of which have come all the glories she possesses. The same kind of people have gone out into Arizona and sought to build up the waste places upon the continent. Why should they not have a voice, a potent voice, in the halls of Congress to protest against such iniquity?

Mr. President, it seems to me that the conclusive argument in this case has been furnished why Arizona and New Mexico and Oklahoma should be admitted into the Union as States.

Mr. LODGE and Mr. FORAKER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. LODGE] is recognized.

Mr. FORAKER. Mr. President, I ask whether or not I had the floor. I was on the floor when the Senator from Utah——

Mr. LODGE. I understood the Senator from Utah [Mr. RAWLINS] yielded the floor to the Senator from Ohio [Mr. FORAKER].

Mr. FORAKER. No; I did not yield the floor. The Senator from Maine [Mr. HALE] asked me a question as to whether or not I agreed with the Senator from Utah. I replied that I was not in the Chamber when the Senator from Utah made any such statement as that imputed to him, but I would yield to the Senator from Utah, who asked that I might do so in order that he might answer the question of the Senator from Maine. He has been ever since answering it. I thought I had the floor.

Mr. LODGE. I did not mean to take the floor from anyone. I had waited very patiently, I thought, until everyone had spoken and I was recognized by the Chair.

Mr. FORAKER. I was in the midst of some remarks that I desire very much to conclude. It perhaps is not material, but I think the Senator from Massachusetts should not insist, even if he has the right to deprive me of the floor——

Mr. LODGE. I will not insist, of course.

Mr. FORAKER. Until I may conclude what I was about to say.

Mr. LODGE. Certainly.

Mr. FORAKER. I am glad——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. I yield, of course, Mr. President.

Mr. FORAKER. I am glad that I have had this interruption, Mr. President, because it has given me an opportunity to look over the cases that have been reported as decided by the Supreme Court, and to look over these two memorials. I think now I can make an intelligent explanation of the whole matter, and state it so that anybody can understand it, and so that there will not be any reproach resting upon the people of Arizona.

I never heard of this question about the Pima County bonds until the Senator from Connecticut [Mr. PLATT] took the floor and raised the question whether or not the Territory of Arizona had not been guilty of repudiation, or an attempted repudiation; but as he progressed, and as others spoke, I began to find out about it. I sent for the authorities cited, and now I think I can give an intelligent explanation of the whole matter.

It seems, Mr. President, that under Territorial legislation bonds were issued to aid in the construction of railroads; not one railroad, but a number of railroads. In a number of cases these bonds were regularly and lawfully issued, and from time to time, as the interest accrued upon them, the interest was paid. The liability of the Territory was never questioned in any instance as to all such issues, until some years had elapsed. After some years had elapsed, on some account or other, a question did arise as to whether or not there was a liability.

The legislature of Arizona then came forward with the memorial which the Senator from Massachusetts and the Senator from Connecticut evidently had before them when they were asking me to read different parts of the memorial I had before me. What they were asking me to read had no reference whatever to the point I was trying to make; and for that reason I had not read that part of the memorial. I observed when I read, in answer to their request, the part of the memorial they wanted me to read, it did not fit what they had in their minds. The trouble was owing to the fact that there have been two memorials. I did not know of the first one, and they apparently did not know of the second one. They had the first before them, and I had only the second.

The legislature of Arizona, in a very statesmanlike way, I will say—although the Senator from Maine [Mr. HALE] is absent from the Chamber and we can not, therefore, have his appreciation of the remark until he reads it in the RECORD—came forward and presented a memorial to the Congress of the United States, in which they recite the facts, and I want to give you those facts, in respect to the bonds concerning which they were presenting a memorial. They say:

To the Senate and House of Representatives
of the United States of America in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Arizona, beg leave to submit to your honorable bodies that—

Whereas under various acts of the legislative assembly of the Territory of Arizona certain of the counties of the Territory were authorized to issue, in aid of railroads and other quasi public improvements and did under such acts issue bonds, which said bonds were sold in open market, in most instances at their face value, and are now held at home and abroad by persons who, in good faith, invested their money in the same, and, save and except such knowledge as the law imputes to the holder of bonds issued under authorized acts, are holders of the same; and

Whereas the validity of these bonds for many years after their issuance was unquestioned and acknowledged by the payment of the interest thereon as it fell due; and

Whereas there has recently been raised a question as to whether these acts of the legislative assembly were valid under the organic law of the Territory, which had led to movement looking to the repudiation of the indebtedness created under and by virtue of such acts; and

Whereas we believe that such repudiation would, under the circumstances, work great wrong and hardship to the holders of such bonds and at the same time seriously affect the credit and standing of our people for honesty and fair dealing and bring us into disrepute.

Let me stop here to remark that this does not read like the language of dishonest men seeking to repudiate obligations justly and legally and validly incurred.

Therefore we most strongly urge upon your most honorable bodies the propriety and justice of passing such curative and remedial legislation as will protect the holders of all bonds issued under the authority of acts of the legislative assembly, the validity of which has heretofore been acknowledged, and that you further legislate as to protect all innocent parties having entered into contracts resulting from inducements offered by our Territorial legislation, and relieve the people of the Territory from the disastrous effects that must necessarily follow any repudiation of good faith on the part of the Territory, and that you may so further legislate as to validate all acts of the legislative assembly of the Territory which have held out inducements for the investment of capital within the Territory, and which have led to the investment of large sums of money in enterprises directly contributing to the development and growth of the Territory, and thus relieve the honest people of the Territory from disastrous effects that must necessarily follow any violation of good faith on the part of our people.

Resolved, That our Delegate be, and he is hereby, instructed to use all honorable means to bring this subject to the earnest consideration of Congress; that the secretary of the Territory be, and he is hereby, requested to transmit a copy of the foregoing to each House of Congress and to our Delegate in Congress.

The date of the memorial is not given. The print of it, as I have read it, is found in 172 United States Reports.

Mr. LODGE. It was adopted in 1895.

Mr. FORAKER. I was about to remark that I am informed it was adopted in 1895 and presented in 1895.

Mr. LODGE. It is so stated in the Supreme Court report.

Mr. FORAKER. Very well. That is near enough. At any rate, that memorial followed immediately after the case reported in the 155 United States Reports, at page 54, the case of Lewis *v.* Pima County, cited first in this debate by the Senator from Connecticut [Mr. PLATT]. Let me read the syllabus in that case:

The act of the legislature of Arizona of February 21, 1883, authorizing Pima County, in that Territory, to issue its bonds in aid of the construction of a railway, is a violation of the restrictions imposed upon the Territorial legislatures by Revised Statutes, section 1889, as amended by the act of June 8, 1878, chapter 168, and the bonds issued under the authority assumed to be conferred by that statute created no obligation against the county which a court of law can enforce.

The court set out in their opinion and in the statement of facts in the case what the facts were, namely, that the bonds were issued without any lawful authority; that they created no liability whatever on the county of Pima; that nobody was under any obligations to pay them, and that the holders of them were without any remedy at all at law, whatever their remedy might be elsewhere.

As a result of that decision of the Supreme Court, there was a cloud cast upon all the bonds they had issued, and then followed the memorial of the legislature which I have just read.

But, Mr. President, the memorial describes one class of bonds and the Supreme Court describes another class of bonds when it comes to the Pima County bonds. The memorial speaks of bonds lawfully and regularly issued, duly sold, most of them for par, the proceeds of which passed into the hands of the officials of the counties and were used in the construction of railroads. Therefore they say it would be repudiation without excuse to refuse to pay bonds of that character. But the Supreme Court said, as to the other bonds, there was no liability whatever of that character, and yet the language employed by the Supreme Court was of such broad character as to cast a cloud on the validity of all the bonds that had been issued.

Then it was that the Congress of the United States, responding to that memorial, passed an act validating the bonds in Arizona in aid of railroad companies, an act of such broad character and language as to include by its terms the Pima County bonds which had been held to be absolutely invalid, which the legislature of Arizona had never asked Congress to validate, and which any lawyer in the country, I think, would have told you nobody would think of asking Congress to validate, making an absolute liability upon the Territory, which had not issued the bonds, on account of bonds unlawfully issued, and issued without consideration by a county of the Territory. Yet that is what was done by the Congress of the United States.

I characterized it fittingly, I think, when I said a while ago that for the Congress of the United States to saddle upon that Territory a liability for which not even the county that had issued the bonds had ever received one dollar of value, was an act of tyranny, and that I do not wonder that the people in the Territory are seeking to escape from such government as the Congress of the United States has been giving to them. It is absolutely inexcusable, and a shame and a disgrace to this body, if these facts are true, that we should have done it. Yet Senators stand here and talk about the incompetency of men in the legislative assembly of the Territory of Arizona. Mr. President, if there is fault to be found anywhere, it is here, where we would do a thing so absolutely without excuse, as I conceive that to be, looking at the morals of it and looking at the equities of it.

I am not speaking of the question of power. Of course we have the power. The Congress can govern the Territories as the Congress may see fit, and if the Congress sees fit to saddle a debt of over a hundred thousand dollars on a Territory, Congress has power to do it, whether or not the Territory got value received for it, but Congress might be in better business than doing that.

Now, Mr. President, after that decision in 155 United States, then, although the Supreme Court had decided that there was no validity in these bonds, and consequently no obligation or liability on account of them, an obligation was asserted. They undertook to make the people pay on the ground that the statute of Congress which they had asked for as to the other bonds was in such broad terms as to include these bonds as well as the other class of bonds.

Thereupon came the second memorial; and now, as I read it, you will note how it fits in with what I have been saying, how the same legislature which asked that Congress would validate bonds that had been properly issued also asked that Congress would exclude, by proper act of legislation, from the operation of their previous act bonds for which the Territory had never received any value and which were unlawfully issued and the proceeds of which had been pocketed by a lot of scamps. Here is what it says; I want to read all of it:

Territory of Arizona, office of the secretary—

Then follows the certificate by the secretary of the Territory

that this memorial has been duly passed by the Territorial legislature. Then it says:

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Arizona, beg leave to submit to your honorable bodies that

Whereas a memorial was presented to your honorable bodies by the eighteenth legislative assembly of the Territory of Arizona regarding bonds issued by certain counties of said Territory, which memorial was intended to apply only to such bonds as had been bought in good faith, and interest on which had been paid, as stated in the aforesaid memorial; and

That is what the legislature of Arizona is now reciting. They are describing the memorial they presented to Congress, a memorial to Congress praying that Congress would validate bonds which had been issued in good faith, in accordance with law, and which had been sold in the market for full value, and the proceeds of which had been used by the officials of Arizona.

Whereas, in response to said memorial, your honorable bodies thereafter passed the act entitled "An act amending and extending the provisions of an act of Congress entitled 'An act approving, with amendments, the funding act of Arizona,' approved June 25, 1890, and the act amendatory thereof and supplemental thereto approved August 3, 1894," approved June 6, 1896; and

Whereas, based on said memorial and act of June 6, 1896, the Supreme Court of the United States has recently rendered a decision tending to recognize the validity of certain bonds issued by Pima County, Arizona Territory, to the Arizona Narrow Gauge Railroad under the provisions of the act of the legislative assembly of the Territory of Arizona approved February 1, 1883; and

Let me stop here to explain what was meant. After this first memorial and after the legislation that followed, the holders of these Pima County bonds came into the court and insisted that they were validated by this act which the memorial asked for, when the memorialists only asked for such legislation as to bonds that had been properly issued and for which there was a proper consideration. The Supreme Court held that the law was broad enough to apply to all bonds issued, without regard to whether there had been value received or not, but the language employed by the court—I refer to the case of Utter *v.* Franklin, 172 U. S. Reports, at page 416—was not such as, without question, to make the Pima County bonds valid. Thereupon they memorialized Congress again. Having recited all that, they then proceed:

Whereas before the passage of said memorial said bonds had been declared unauthorized and void by the district court of the first judicial district of the Territory of Arizona in and for Pima County, by the supreme court of the Territory of Arizona, and by the Supreme Court of the United States, in the case of Lewis *v.* The County of Pima, decided in the Supreme Court of the United States at its October, 1894, term; and

They recite there the record. These bonds of Pima County had been decided to be invalid before their memorial, by their county court, by the supreme court of the Territory, and by the Supreme Court of the United States. They had been declared invalid and as creating no obligation on Pima county, because there was never any railroad built and never any value received—the whole thing a stupendous fraud from beginning to end. Again they recite:

Whereas said bonds issued to said Arizona Narrow Gauge Railroad Company were never acquired by said company in good faith, and were never sold by it in good faith or for a valuable consideration, and none of the interest on said bonds had ever been paid by Pima County, and the validity of said bonds had never been acknowledged by said county; and

Whereas the said Arizona Narrow Gauge Railroad was never built and never existed, and Pima County has never received any consideration whatever for the said so-called bonds, and the entire scheme of the said bond issue was a fraud without any element of merit or good faith; and

Whereas all the foregoing facts were and are notorious, and within the knowledge of everyone who has ever had any dealings with said bonds; and

Whereas it was by all the members of the legislature passing said memorial, and by the governor of Arizona at the time, and by the then Delegate in Congress from Arizona believed that all of said bonds so issued by Pima County to the Arizona Narrow Gauge Railroad Company were res adjudicata by the said decision of the Supreme Court of the United States, and that none of the said bonds could be thereafter validated; and

Whereas said memorial was intended to apply only to certain railway aid bonds of two other counties in Arizona, where the aided railways were actually constructed, and not to the said bonds so issued by Pima County, as to which none of the statements or reasons in said memorial applied, and which bonds were then, as now, believed to be without consideration, unjust, fraudulent, and void:

Therefore we most strongly urge upon the Senate and House of Representatives of the United States of America to pass such legislation as will exclude from the provisions of the act of Congress of June 6, 1896, and from any and all other legislation by Congress, the said bonds so issued by Pima County to the Arizona Narrow Gauge Railroad Company, so that neither said act of June 6, 1896, or any other act will be construed so as to validate the said bonds issued by Pima County.

Congress ought to have responded to that appeal, but Congress did not do so. Congress before that, on the previous memorial, had passed an act broad enough, according to the judgment of the Supreme Court, by its terms to validate bonds that had been issued unlawfully, without any consideration, with the proceeds of which no railroad, and no foot of any railroad, as I understand the facts, had been built. When this appeal was made to the Congress, a case was presented to us to which I say we ought to have responded, for it was made to appear to us that we had passed an act going by its terms far beyond that which had been prayed for by our memorialists, whose prayer we had responded to previously. We ought to have corrected the mistake we made, but we did not do it.

Now, what is the consequence? The Supreme Court says in this case (in 172 U. S.) that the Congress has the power to saddle onto the Territory anything of this nature it may see fit to saddle, and that having done so the court can only say where there was no obligation before one has now been created by the Congress of the United States, and you are helpless by reason of the action of the Congress of the United States and you shall pay.

That being the case, Mr. President, the question of obligation resting upon that idea, is it any wonder that this obligation was contested again in the courts? Would any public official have been true to his trust if he had not, before seeking to enforce payment by using his official power, gone to the courts to test whether or not the Congress of the United States could lawfully impose an obligation where the Supreme Court had already said there was absolutely no obligation?

Now, that is all the delay there has been. They have gone through the courts contesting as to that proposition. The Supreme Court of the United States has now held that the Pima County bonds were validated by the act of Congress. I do not know what the decision is the Senators have before them, which they say was only recently rendered. They have it in their keeping, and I have not been able to see it. But I speak of what the court has said in the former cases, which I do have before me. Would the Senator from Connecticut or Massachusetts have any objection to reading me the syllabus? [A pause.] Very well; I shall wait until the Senator takes the floor. On page 423, of 172 United States, the Supreme Court, in discussing the effect of this act, says:

We think it was within the power of Congress to validate these bonds. Their only defect was that they had been issued in excess of the powers conferred upon the municipalities by the act of June 8, 1878.

I need not read further. The holding of the court was not because of what any official of Pima had done there was a liability, but that a liability had been created by a subsequent act of Congress, an act that we did not pass until the Supreme Court of the United States had held that the bonds had been unlawfully issued and that they were invalid and that they created no obligation.

Mr. ALDRICH. Will the Senator from Ohio allow me to ask him a question?

Mr. FORAKER. Certainly.

Mr. ALDRICH. I have been greatly interested in his statement about a matter which is entirely new to me. He speaks, I think in proper terms, of the outrageous treatment which these people have received from Congress, if his statement is true. Will the Senator tell me upon whose suggestion or initiative this wonderful legislation was adopted here?

Mr. FORAKER. I do not know. This legislation was enacted shortly after I came into the Senate, when I knew a great deal less about what was being done in the Senate than I think I do now.

Mr. ALDRICH. I did not know but that the Senator had the record there——

Mr. FORAKER. I have not the record here.

Mr. ALDRICH. Showing by what committee of Congress it was reported.

Mr. FORAKER. It was passed by the Fifty-fifth Congress.

Mr. ALDRICH. I suppose it was adopted upon the report of some committee. I did not know but that the Senator had the record before him.

Mr. FORAKER. These cases do not say anything about that. I have been reading from the Supreme Court Reports. I do not know what committee reported it. All I know is that the Supreme Court states that an act was passed by Congress, and it says, notwithstanding it has held these bonds invalid, this act of Congress, the Congress being all powerful, imposes an obligation where none previously existed.

Mr. ALDRICH. These questions have usually been settled by Senators on the other side of the Chamber, a number of whom have taken part in this debate; and I should like to know who is responsible for the legislation which the Senator is characterizing in such vigorous terms.

Mr. FORAKER. I am addressing the Senate. I have not now time to investigate. As soon as I quit the floor, I will be glad to send for the report and find out all I can about it. I suggest to the Senator that he do so while I am speaking, and thus save time.

Mr. ALDRICH. I will do it.

Mr. FORAKER. I have said practically all I care to say. All I wanted to do was to exonerate the people of Arizona, in whose probity and honor and integrity I have the greatest confidence, from the cold-blooded, brutal charge, as I think it was, that they are, upon such facts, to be branded as repudiationists, that they stand guilty, convicted by the Supreme Court of the United States, of having repudiated their just debts. If there is any record anywhere to justify such a charge I have not seen it. On the contrary, the record that I have seen shows that the people of Arizona did not do differently with regard to these bonded

obligations than any other community in the United States would most probably have done. Scamps and scoundrels occasionally get into office in old as well as new communities. It is no unheard of thing for county officials to overstep their lawful rights, usurp authority, and issue invalid securities.

Only a few years ago our legislature passed a law called the "Boesel law," authorizing the construction by county aid of railroads in Ohio. Numerous enterprises were set on foot. Bonds were issued by county officials; they were sold, and after that they were held by the courts to be invalid. We had only recently a case of this kind arising in the city of my colleague. The legislature passed a law authorizing the taxation of all property in Cuyahoga County for the purpose of building an armory, and authorizing the issuance and sale of bonds to anticipate the revenues. Bonds were issued. They were put upon the market. They were sold for full value. With the proceeds they built the armory, and then after they had done so the county authorities in Cuyahoga County refused to levy the tax, although they had several times paid the interest on the bonds. They refused to continue to levy the tax rate to meet the interest and the principal of those bonds.

The holders went into the courts of Ohio and were there defeated, the supreme court of Ohio holding it was incompetent for the legislature, under the constitution of Ohio, to provide for a public improvement that belonged to the whole State and impose the whole burden of it upon the property in the single county where it was located. Thereupon the holders of those bonds went to the legislature of Ohio and they there procured a curative act, under which subsequently the holders got a judgment for the amount of their bonds, and ultimately the matter was taken care of.

The people of Cuyahoga County were not repudiationists, although the case against them was much stronger than this case against Arizona.

I mention this to show that it is no evidence of unfitness or incapacity for statehood that the legislature of the Territory, issuing bonds to aid railroads, may have issued invalid securities, the validity of which the people interested had the right to question in the courts, as they successfully did in this instance. There is not a State in this Union probably where the same thing has not occurred over and over again in some form or other.

When a community resists what it concedes to be an invalid and unlawfully issued security, it is not an evidence that they are dishonest. It is not an evidence that they are repudiators. Those are harsh words, Mr. President. In this case they are inexcusable.

Mr. President, in view of what has occurred here during the last hour, I am more thankful than ever that I am supporting this statehood bill. If there has been a clearer case made against Territorial government than this made here within the last hour, I have not heard of it. Here are people struggling to develop a community. They are an honest people. Their first and second memorials alike show that fact. I did not go beyond what the facts warranted me in saying when I stated that the Territorial legislature of Arizona figures in this matter far more creditably than the Congress of the United States. If there be fault anywhere to be found or to be laid, it is here, not there. They have acted not only honorably, Mr. President, but they have acted zealously to do their duty and their full duty. Is it to be wondered at that they were of the opinion, when they memorialized the Congress of the United States subsequent to the Supreme Court decision that the Pima County issue of bonds was invalid, that no act could be passed that would reach back and bring the dead to life.

Mr. GALLINGER. Will the Senator from Ohio permit me for one moment?

Mr. FORAKER. Certainly.

Mr. GALLINGER. The question was raised by the Senator from Rhode Island [Mr. ALDRICH] as to the source from which the legislation concerning this matter came. I hold in my hand a report made on a House bill legalizing these bonds, which bill was approved March 3, 1901. I will send it to the Senator. It appears that the Senator from Montana, Mr. Carter, made a favorable report from the Committee on Territories of the Senate.

Mr. FORAKER. I will ask that it may be read.

I have said all I care to say. I was just about to take my seat. I will stop only to emphasize what I said, that here we have an object lesson. Here are a people struggling in that frontier community to develop their industries, to acquire and build up railroads. They have peculiarly difficult conditions of nature there to deal with. They understand those conditions and can legislate about them far more intelligently than we can. We lack the necessary information for intelligent legislation. People come here. They bring in a measure. It is reported by some committee. It gets on the Calendar either as a separate bill or as an amendment to some bill, and before any Senator knows it, who has no special knowledge, it has become a law. That has happened over and over again. It happened so in this case—I will not say before any Senator knew it, but I will say that it happened so before many Senators could have known it.

I was here. I was pretty regular in my attendance. I never heard of any such bill. If I had heard of it and had comprehended what it meant, I would have certainly had a place in the RECORD showing that I was in opposition to any such measure, for I regard this legislation as absolutely tyrannical, oppressive, and unjust.

Mr. ALDRICH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield?

Mr. FORAKER. I yield to the Senator from Rhode Island.

Mr. ALDRICH. I hold in my hand the report of the Committee on Territories upon the bill. I think the Senator from New Hampshire is mistaken in the report which he put in. This is a report made by the Senator from Kansas [Mr. HARRIS] in favor of the bill. I think the bill was reported by the late Senator from Minnesota, Mr. Davis.

Mr. FORAKER. I do not know by whom it was reported.

Mr. ALDRICH. The report seems to have been made by the Senator from Kansas.

Mr. FORAKER. I should like to have some Senator look at the RECORD now and see how much debate there was over it.

Mr. ALDRICH. That is what I am trying to find out.

Mr. LODGE obtained the floor.

Mr. GALLINGER. If the Senator from Massachusetts will permit me just one moment, I simply want to say that the Senator from Rhode Island is manifestly mistaken in saying that I sent up the wrong bill. I ask unanimous consent that the report on this matter made by the Senator from Montana, Mr. Carter, be printed in the RECORD. I do not care to have it read.

Mr. TILLMAN. I should like to hear it.

Mr. FORAKER. I should like to have it read.

Mr. LODGE. I believe I have the floor.

Mr. ALDRICH. It is the act of June 6, 1896.

Mr. LODGE. And also there was an act of March 3, 1901. This is the act of June 6, 1896.

Mr. ALDRICH. It was the act of 1896 I had reference to, reported by the Senator from Kansas [Mr. HARRIS].

Mr. LODGE. We passed a later act March 3, 1901.

Mr. ALDRICH subsequently said: Mr. President, in referring to the act of 1896 a few minutes ago, I stated that the report in favor of that act was made by the Senator from Kansas [Mr. HARRIS]. I made that mistake because it did not occur to me at the moment that there was any other Harris in the Senate at that time. It seems, however, that the Senator from Kansas was not then a member of the Senate and that the report was made by the late Senator from Tennessee, Mr. Harris. I make this statement in justice to the Senator from Kansas.

The PRESIDENT pro tempore. If there be no objection, the report submitted in 1901 will be printed in the RECORD.

The report is as follows:

[Senate Report No. 2035, Fifty-sixth Congress, second session.]

ISSUE OF BONDS BY SUPERVISORS, PIMA COUNTY, ARIZ.

[January 25, 1901.—Ordered to be printed.]

Mr. Carter, from the Committee on Territories submitted the following report (to accompany H. R. 8068):

The Committee on Territories, to whom was referred the bill (H. R. 8068) authorizing the board of supervisors of Pima County, Ariz., to issue fifty-year 5 per cent bonds of Pima County, Ariz., to redeem certain funded indebtedness of said county, have examined the same, and recommend the passage of the bill, with the following amendments:

In line 2 of the title of the bill strike out the word "five" and insert in lieu thereof the word "four."

In line 9, page 3, strike out the word "five" and insert the word "four."

The report of the Committee on the Territories of the House of Representatives is hereto attached and made part of this report.

HOUSE REPORT.

The Committee on the Territories, to whom was referred the bill (H. R. 8068) authorizing the board of supervisors of Pima County, Ariz., to issue fifty-year 5 per cent bonds of Pima County, Ariz., to redeem certain funded indebtedness of said county, beg leave to submit the following report and recommend that said bill do pass:

The first act bearing on this subject is the act of the Territorial legislature approved March 10, 1887, providing for outstanding indebtedness.

It provided for a loan commission to perform the duties prescribed by the act in the funding of the indebtedness, the commission to be composed of the governor, Territorial auditor, and Territorial secretary.

For existing indebtedness due and to become due the commission was empowered to issue negotiable coupon bonds of $1,000 each, with interest to be fixed by the commission.

This act, of course, provides for the whole procedure in the issuance of these bonds, providing for their final payment within twenty-five years, as the commissioners might fix. (Revised Statutes of Arizona, p. 361.)

Under this act, in 1887, Pima County issued $300,000 worth of 7 per cent bonds, and later the loan commission funded $103,000 of them in 5 per cent fifty-year bonds, and $147,000 of them are yet unfunded, the first installment of which—$25,000—falls due June 30, 1901, the levy for which, if this bill is not passed, will have to be made in August next.

In 1899 this act of the Territorial legislature was amended by Congress (U. S. Stat. L. 26, p. 175) so as to authorize the loan commission to issue bonds bearing interest not to exceed 5 per cent, and authorized the commission, on the request of counties and municipalities, to issue Territorial bonds in lieu

of their indebtedness, to run fifty years, and to open up an account of the same with the counties and municipalities of the Territory, assuming their original obligation.

This act so amended, and approved as amended, provided that the same as amended, and the same is hereby provided and confirmed, subject to future Territorial legislation.

Now, following this, the Territorial legislature, March 19, 1891, passed an act approving of this funding act of the Territory enacted by Congress, amending chapter 1 of title 31 of the Revised Statutes, before referred to, and set the matter in motion as enacted by Congress and submitted to Territorial legislation afterwards. (Act 79, at page 97, Session Laws of Arizona of 1891.)

Following that, on June 6, 1896, Congress passed an act amending and extending the provisions of the act of Congress before named to the Territorial indebtedness, providing that the acts of Congress approved June 25, 1890, and August 3, 1894, authorizing the funding of the indebtedness of Arizona, be amended so as to authorize the funding of outstanding obligations of the Territory and to counties, municipalities, etc., until January 1, 1897, providing that all outstanding bonds, warrants, and other evidences of indebtedness of the Territory, counties, etc., heretofore authorized by legislative enactment of the Territory, bearing a high rate of interest, might be refunded into bonds bearing a lower rate. This might be done up to January 1, 1897, remember. That is its limitation.

After this act the general funding act before referred to, enacted by Congress, having provided that it should all be subject to future legislation, was again passed upon by legislature in 1899, found at page 39 of the laws of that session.

There they pass an act called "An act to abolish the loan commission and to repeal sundry laws thereto." The act was that paragraph 2039, section 1, chapter 1, title 31, of the revised statutes of Arizona, the one heretofore referred to, and also that section 1 of act 79, session laws of the sixteenth legislative assembly heretofore referred to, and acts 33 and 74 of the session laws of the eighteenth legislative assembly of the Territory, referring to all of the funding acts, are hereby repealed. It repealed them all, and in that condition we are now.

Now, in view of the fact that Congress, in amending and reenacting the funding law of Arizona, as before stated, provided that it should be subject to the future legislation of the Territory, and in view of the further fact that Congress in 1896 provided the limitation for funding the outstanding indebtedness at the date of January 1, 1897, and of the further fact that the legislature of Arizona, to whose jurisdiction Congress referred this funding business and subjected it to its power, repealed all these laws outright, we submit that the board of supervisors now have no authority under existing laws to issue bonds for the refunding of Pima County's indebtedness.

In view of the foregoing facts the passage of the bill is respectfully recommended.

Mr. LODGE. Mr. President, until this afternoon I had no idea who owned the Pima County bonds or who the dangerous bondholders were to whom the Senator from Utah [Mr. RAWLINS] has referred with so much fervor. It now appears that they belong to a firm of which Mr. Bird S. Coler is the head. It is true that he was the Democratic candidate for governor in the recent election in New York. That may have been his misfortune; but I do not think that it should exclude him from his rights as an American citizen to a payment of his just debts, and it does not seem to me that that fact at all touches the question which is here involved.

Neither, Mr. President, do I desire to suggest the charge which the Senator from Ohio has discussed with so much earnestness, that these people in Arizona are incompetent. They seem now to have displayed very great competency, perhaps more competency than some other qualities. But I should like to trace in my turn just what happened in Arizona, filling in a few omissions in the brilliant narrative of the Senator from Ohio.

In 1879 the Territorial legislature of Arizona authorized the building of this railroad. They authorized county aid to other railroads. I do not know whether there was any fraud in it or not. I do not know whether the honest builders of the waste places were led to pass these acts by the minion of the Federal Government in the position of governor, or by some governor's brother. It does not appear on the record. They seem to have passed these acts as set forth in the case of Lewis *v.* Pima County. In 1883 some of these bonds were issued. The Senator from Ohio says that not a foot of the railroad had been built. The Supreme Court says:

There was nothing in evidence showing bad faith on the part of the railroad company, in so far as the first exchange of bonds was concerned——

Mr. FORAKER. Will the Senator allow me to ask him what he is reading from?

Mr. LODGE. I am reading from the case of Murphy *v.* Utter, decided in the October term, 1901.

Mr. FORAKER. What is the volume?

Mr. LODGE. It is volume 186, page 112:

There was nothing in evidence showing bad faith on the part of the railroad company, in so far as the first exchange of bonds was concerned—

That is, when they exchanged the railroad bonds with the county—

nor is there any evidence which shows bad faith on the part of the company or its contractor, Walker and his principals, Coler & Co., except their failure to continue the building and equipment of the road after the completion of the 30 miles of grading and laying of 10 miles of track—

That is not very much, but it is more than a foot—

except such inferences as may be drawn from the fact that both the railroad company and Coler & Co. had difficulty in raising the money for the payment of the work done, and did not have the resources to go on and complete the work.

That, I take it, is what happened with the railroad after the issue of the bonds. There is no suggestion of fraud so far anywhere. If there was any fraud in the passage of the original acts it must have been on the part of the Territorial legislature which passed those acts. But it does not appear that there was any fraud, and it is not suggested.

In Lewis *v.* Pima County, which was submitted on October 18, 1894, and decided the same month, the court decided the bonds invalid on the ground that their issue was ultra vires; that they had no power under the act of Congress to issue bonds for a purpose not strictly municipal or relating to the internal affairs of the county. There is no suggestion in that opinion that there was any fraud whatever.

Thereupon the Territorial legislature of Arizona came here with a memorial, which has been read, asking the Congress of the United States to validate railroad bonds. It mentioned none by name; it excluded none; it described them generally. That act was passed, in response to the demand of the Territorial legislature of Arizona on the 6th of June, 1896. Thereupon they proceeded to refuse to refund them through the loan commissioners. The court then decided, in the case of Utter *v.* Franklin, that the bonds were valid. Then the legislature of Arizona turned up here and asked Congress to enable them to repudiate the bonds.

Then an act was passed in 1901 validating the Pima County bonds expressly by name, and this further case, which was tried in October, 1901, volume 186, page 95, was on an appeal by the loan commissioners of Arizona from a judgment of the supreme court of that Territory rendered March 22, 1901, granting a peremptory writ of mandamus and commanding such loan commissioners, upon the tender by plaintiffs of $150,000 bonds of the county of Pima with coupons attached, described in the petition, to issue and deliver to the petitioners refunding bonds of the Territory pursuant to certain acts of Congress; and the court held, as it was decided in Utter *v.* Franklin (172 U. S., 416), that it was made the duty of the loan commissioners to fund the bonds in question. It was held that, if the defendant could be permitted to set up any new defenses at all without the leave of this court, it could not set up objections to the validity of bonds which existed and were known to the loan commissioners at the time the original answer was filed and before the case of Utter *v.* Franklin was heard or decided by this court.

Now, Mr. President, if those dates are followed the explanation is very simple. The Territorial legislature of Arizona authorized certain counties to do acts which, under the laws of Congress, they had no right to do. Then, when they got tired of paying the interest, and the railroad was only partially completed and could not be entirely completed, they declined to pay the interest. Thereupon a suit was brought on certain coupons, and the court held that the act, as it clearly was, was ultra vires. Then they found that their credit was impaired. Thereupon they came to Congress and got an act validating the bonds. Then when they found that they had to pay these other bonds, too, they undertook to get those repudiated. Then they got those confirmed, and now, after having asked to have the bonds confirmed, they have resisted them in every possible way in the courts.

It does not appear on the record presented to us that there was any fraud in the issue of bonds. Certainly the Supreme Court never made any such statement for a moment. But it does seem to me to show a very great looseness in legislation in that Territory and a very great indifference to obligations to this character. The way in which they first authorized bonds, then refused to pay them, then got legislation to validate them, then refused to pay them and resisted in the court, then got more legislation, then resisted that legislation, seems to me to indicate at least indifference to proper public obligations, which is unfortunate in a community which is asking for the highest rights which can be conferred on any community.

Whether they as a people are to blame for this, whether it is the fault of the brother of some governor, I do not know; but I do not think the history of those bonds is a creditable history to any community; and the fact that they are held in the State of New York by Mr. Coler or anybody else does not touch the question the least in the world.

The interest of the question here is twofold. Is there in that bill any sufficient provision for the protection of all bondholders who, in good faith, have loaned money to that community; and does that community show in its business transactions, of which this may be taken as a specimen, that fidelity to public pecuniary obligations which we have a right to demand from a State of the Union?

In my judgment, after listening to the debate and reading these cases this afternoon, it seems to me to throw grave doubt on their capacity as a community to deal properly with pecuniary obligations of this kind and an indifference to obligations which a State should hold sacred. It is not for them, after they have deliberately authorized the borrowing of money on certain terms, to turn around and try to get out of it. That is not the way public credit is preserved and made strong.

I am very glad, Mr. President, for one that this matter has been brought to the attention of the Senate by the Senator from Connecticut [Mr. PLATT], for I think it throws an instructive, if not a pleasing, light on the methods of doing business in that legislature.

Mr. BEVERIDGE obtained the floor.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 16604) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1904, and asking for a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HALE. I move that the Senate insist upon its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate, and Mr. HALE, Mr. CULLOM, and Mr. BERRY were appointed.

ABANDONMENT OF PUBLIC ALLEY.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 4221) authorizing the Commissioners of the District of Columbia to extinguish a portion of an alley in square 189, which was, on page 2, line 6, to strike out all after the word "ground" down to and including the word "law" in line 14.

Mr. GALLINGER. I move that the Senate agree to the amendment made by the House of Representatives.

The motion was agreed to.

REDEMPTION OF CERTAIN OUTSTANDING DISTRICT CERTIFICATES.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3243) to redeem certain outstanding certificates of the board of audit of the District of Columbia.

The amendments were, on page 2, line 2, after the word "cents," to insert:

No. 4665, for the sum of $20.90; No. 4666, for the sum of $20.90; No. 4667, for the sum of $68.20; No. 14780, for the sum of $64.25; No. 16454, for the sum of $43.22; No. 16455, for the sum of $13.19; No. 16456, for the sum of $13.19.

On page 2, line 3, after the word "Columbia," to insert:

Sewer certificate No. 792, for the sum of $50, issued by the board of public works of the District of Columbia.

On page 2, line 8, after the word "eighty," to insert:

And to pay to the holders the amount due on drawback certificates numbered, respectively, 4259, 4616, 7637, 7639, 9570, 9571, 9572, 12869, 15974, 16611, and 16774, amounting in the aggregate to $327.50; and to redeem tax-lien certificates No. 251, for the sum of $9.97; No. 349, for the sum of $9.35; No. 1252, for the sum of $93.37, and No. 5414, for the sum of $17.10; and to pay to the holder of tax-sale certificate on lot 3, square 947, the sum of $112.90, with interest at 6 per cent per annum for two years from its date.

Amend the title so as to read:

An act to redeem certain outstanding certificates of the board of audit, the board of public works, and the Commissioners of the District of Columbia.

Mr. GALLINGER. The amendments have been considered by the committee. I am authorized to move that the Senate agree to the amendments made by the House of Representatives.

The motion was agreed to.

ALLOTMENT OF CHIPPEWA INDIAN LANDS IN WISCONSIN.

Mr. QUARLES. Mr. President, I have just received a message from the Commissioner of Indian Affairs, who says circumstances have arisen which render it important that a little bill here relating to the allotment of Indian lands shall be passed at once. It has been passed by the House, and I ask unanimous consent that the regular order may be temporarily laid aside, that Senate bill 2043 may receive consideration.

Mr. BURTON. I wish to ask if the communication from the Commissioner of Indian Affairs is in writing?

Mr. QUARLES. Oh, no.

Mr. BURTON. My understanding is that it is not proper to make any statement here of a communication from a department unless it comes in writing. I think I shall have to object, as the same objection was made to a bill that I presented the other day.

Mr. QUARLES. I hope the Senator will not indulge in a suggestion of that kind. This is a bill of local importance in Wisconsin, and circumstances have arisen there which render it imperative that these allotments shall be made at once. It is a matter which, while it is local in its nature, is really one of great importance. The communication from the Commissioner was purely informal, and I simply spoke of it as an excuse for interrupting the important business of the Senate, which I should not assume to do on my own motion.

Mr. BURTON. Mr. President, I will say——

Mr. QUAY. Mr. President——

Mr. BEVERIDGE. I think I had the floor.

Mr. QUAY. I ask the Senator to yield to me for one moment.

Mr. BEVERIDGE. I will yield to the Senator.

The PRESIDENT pro tempore. The Senator from Wisconsin asks unanimous consent for the present consideration of a bill the title of which will be read.

The SECRETARY. A bill (H. R. 10698) providing for allotments of lands in severalty to the Indians of the Lac Courte Oreille and Lac du Flambeau reservations in the State of Wisconsin.

The PRESIDENT pro tempore. The bill will be read to the Senate for its information.

Mr. QUAY. I will not object to it, understanding that it is a bill the Senator from Wisconsin says is of immediate importance, the passage of which is earnestly requested by the Bureau of Indian Affairs, and that it will not cause debate.

Mr. QUARLES. It will create no debate. If it does, I will withdraw the request.

Mr. QUAY. I will not object so far as I am concerned.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. The bill will be read to the Senate. There is nothing before the Senate until the question is settled whether or not the bill is objected to, and it can not be objected to until it is read to the Senate. The Secretary will read the bill.

The Secretary read the bill, as follows:

Be it enacted, etc.,

SECTION 1. That with the consent of the Chippewa Indians of Lake Superior, located on the Lac Courte Oreille Reservation in the State of Wisconsin, to be obtained in such manner as the Secretary of the Interior may direct, the President may allot to each Indian now living and residing on said reservation and entitled to so reside, and who has not heretofore received an allotment not exceeding 80 acres of land, such allotments to be subject in all respects, except as to the age and condition of the allottee, to the provisions of the third article of the treaty with the Chippewas of Lake Superior and the Mississippi, concluded September 30, 1854.

SEC. 2. That the provisions of section 1 of this act shall also under same terms and conditions apply to the Chippewa Indians of Lake Superior located on the Lac du Flambeau Reservation in the State of Wisconsin.

The PRESIDENT pro tempore. The Senator from Wisconsin asks unanimous consent that the unfinished business be temporarily laid aside and that the Senate shall consider this bill. Is there objection?

Mr. BURTON. Mr. President, I desire to say that, having heard the statement of the Senator from Wisconsin respecting this bill, and knowing that the statement is correct, I will not make any objection at all.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COURTS AT SCRANTON AND WILLIAMSPORT, PA.

Mr. HOAR. I ask unanimous consent to lay aside informally the pending business and to pass a brief joint resolution which the public exigency requires shall be done without any delay.

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Massachusetts?

Mr. BEVERIDGE. I yield, Mr. President.

Mr. HOAR. I am directed by the Committee on the Judiciary, to whom was referred the joint resolution (H. J. Res. 216) extending the provision granting to the State of Pennsylvania the use of the court-house at Scranton and Williamsport, Pa., to report it without amendment, and I ask for its present consideration.

The PRESIDENT pro tempore. The Secretary will read the joint resolution.

The Secretary read the joint resolution; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that the provisions of the "Joint resolution granting the State of Pennsylvania permission to use the United States court-house at Scranton, Pa., and at Williamsport, Pa.," approved December 23, 1895, shall be continued with respect to the United States court-house at Williamsport, Pa., for the further period of five years from the date of the expiration of the permission therein referred to, upon the same terms and conditions as stated in said joint resolution, and that concurrent jurisdiction, so far as is necessary, over said property be, and the same is hereby, ceded to the State of Pennsylvania, so that the sessions of the superior court of said State in said Federal building and rooms thereof may be, during said period, fully legalized.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

Mr. BEVERIDGE. Mr. President, I do not intend to go into the particular matter, which has occupied the attention of the Senate this afternoon, either at large or in detail. Important and overwhelming as the reasons there appear as against the measure known as the omnibus bill, it was not a matter known to the committee nor upon which the committee based its report; and I did not know about it in its details until this afternoon. It is well because of the light which has been thrown upon the controversy that the matter has come up. I do not intend, I say, to discuss it, at this time at least, either at large or in detail; but I do feel that at this particular juncture, while the Chamber is still ringing with the words of the Senator from Utah [Mr. RAWLINS] and the Senator from Ohio [Mr. FORAKER], that attention should be called to some intemperate and certainly inaccurate expressions, upon which expressions was built a very passionate appeal to the Senate in behalf of the omnibus measure. I think, the Senators themselves will see that these utterances are, to say the least, extravagant.

We have heard these words spoken here, Mr. President, "The tyrannical power of Congress," "The tyrannical action of Congress." I took down the words of the Senator from Utah as he used them, that Congress had "the power to declare that the people of Pima County should pay $100,000,000;" and the Senator from Ohio frequently used the words "The arbitrary and tyrannical power of Congress," and then passionately appealed to us to relieve the people of those Territories from this despotism.

Mr. President, what is this power of which the Senators complain? The claim of such power was based upon this act validating those bonds. But what is the power? Does anybody believe, does the Senator from Utah—now that I have called his attention to it—believe that Congress has the power, unlimited and unrestricted, as he said, to create a debt of $100,000,000 or of $1 and put that on the Territories? Will any person, lawyer or layman, proclaim such a doctrine as that? Mr. President, I know that the Senator, who is an excellent lawyer, when not perhaps in the heat of advocacy, would not declare any such rule of law as that. Therefore what is that power? And was either Senator justified in the use of the adjectives "tyrannical" and "arbitrary," and especially were they justified in the excited appeals which they have made to the Senate to relieve the people of those Territories from this czar-like rule?

It is just this, Mr. President: The Congress of the United States, according to the Constitution, has power to make all needful rules and regulations respecting the government of the Territories. Under that power the Territories have already been given by Congress almost unlimited power of absolute self-government. They elect their legislatures; they elect their Delegates to Congress; their legislatures pass practically all laws a State can pass; they have entire local self-government in their municipalities. They have all this except, Mr. President, in one particular, and I am very glad that this debate arose upon this question, if for no other purpose than to call attention to this one important limitation.

The Congress of the United States, taking counsel from experience, enacted a law that no municipality, nor the legislative assembly itself, of a Territory could go into debt or should load upon the people of that Territory a debt exceeding 4 per cent upon the assessed valuation of their property. Congress did that because it found that, without such a limitation, the spoilers, who go in there to execute certain schemes, would induce the people to load themselves with a debt which would weigh down upon their shoulders for a generation, and even more in some cases. So limitations were thrown around the power of the creation of debt.

Mr. President, occasionally it seems wise, as in the case of the bill now reported by our committee to the Senate and the bill now before the Senate, to remove that limitation. That is what was done in this case. A limitation which had been placed upon their power to indebt themselves has been taken off. Then, Mr. President, the Delegate came here representing the people, elected by the people, and asked Congress to relieve them of what? Of the protection which Congress had thrown around them. And because Congress did this we are told that we are exercising a tyrannical power. Is that true, Mr. President? Is it not true, on the contrary, that it is the exercise of a protecting power? Does anybody question the wisdom of the Harrison limitation of 4 per cent upon the indebtedness of the Territory? Yet that is the root of this matter.

Now, Mr. President, it thus appears that there has been no arbitrary or tyrannical action here. It thus appears that the Senator from Utah is hardly justified in saying that Congress could create a debt and load it upon these Territories, either $100,000,000 of debt or $1 of debt. Would either the Senator from Utah or the Senator from Ohio say that Congress would have power to pass an act, not based upon anything done there in the Territories at all, but power to pass an act creating $100,000,000 or $1 worth of debt, and then load it upon the Territory? And yet that is what the Senator said, and that is the thing upon which the Senators based their dramatic pleas for "self-government" for the people of that Territory. Does not the whole business show that this is an illustration of the wisdom of retaining a protecting power over the indebtedness of a Territory until it has achieved a certain condition of civil perfection entitling it to come into the Union?

Mr. President, suppose that this 4 per cent limitation was removed, as this bill will remove it—suppose that the people of New Mexico and the people of Arizona did not have the protection of the Harrison 4 per cent limitation—then any person who was adroit enough, or any person who had good enough cause, or any person who could in any way accomplish the end, could get subsidies voted for a railroad, or for any other enterprise, without any relief or any protection by that very provision which the Senators say is tyrannical.

Thus we see, Mr. President, that, instead of being a tyranny, it is a protection; it is a protection that those people shall not be permitted to plunge themselves into debt, which will weight them down and weight their children down for generations. That is the crux, Mr. President, of this whole business. So when the Senator from Ohio, with characteristic eloquence and passion, appeals to this Senate to relieve the people of these Territories of this tyranny, he appeals to them to destroy the protection which the Congress of the United States has thrown around them; and that, Mr. President, is the extent of it.

The Senator from Ohio was the author of one of the wisest laws I ever knew to be framed, to wit, the law for the government of Porto Rico. If the government that now exists over the Territories is "tyranny," as the Senator said, this Porto Rico act certainly is despotism; if this is tyranny, the government of the Philippines can not be designated by any adjective at present at hand. No Senator was more eloquent and persistent than the Senator from Ohio in showing that we were conferring both upon the people of Porto Rico and of the Philippines not despotism, but liberty, yet their government, in comparison with the self-government of the Territories, is only a fragment, a fraction.

So, Mr. President, we see that there is nothing here to relieve these people from the sway of a tyrannical exercise of power. There can not be, because we have protected them from plunging themselves and their children into debt beyond the 4 per cent assessed valuation of their property. This and other things of which everybody knows shows that it is a most salutary provision.

Mr. President, when it becomes necessary in the opinion of the people of the Territories that this protection should be removed, they come here to us—not their oppressors, but their brethren—and state the facts which make that case an exception; and the only thing that this Congress has power to do in such a case is to validate their act, which went outside of the limitations which for their safeguarding we throw around them. In other words, the people have two protections—the protection, first, of their legislature, and then, the supervising protection of Congress when they come here and ask to be relieved of that protection.

I appeal to any Senator, Does that look like tyranny? Is it not a wise provision? Is it not such a provision that a man engaged in business all his life would throw around these people for their protection, in view especially of the experience which they and the people of every other Territory have had?

I do not care to speak upon any phase of this subject except the root of the matter. I know nothing of the facts of this particular case, but it inspired the Senator from Utah and the Senator from Ohio to use adjectives which the case hardly warrants, and then to build upon those adjectives the statement that we are exercising tyranny, that we were putting a debt upon those people, and an appeal that we should set them free. Thus we see "how a plain tale" puts them down. There is nothing of the kind which Senators have alleged. There is simply the protection of the 4 per cent limitation.

I have no doubt that very many want that protection removed, but not for the benefit of the people. If there is any enterprise down there which justifies Congress in its good judgment in permitting those people to go beyond the indebtedness of 4 per cent, undoubtedly Congress will permit them to do so; but while they are in the formative period, while they are in the developing period, while the conditions exist that we all know always accompany new communities, is it a wise thing that that protection shall be taken entirely away? Is the supervising judgment of Congress worth nothing? Is it likely that any equitable scheme, that any wise proposition which is put forward by them to take them out of the 4 per cent limitation, or any other limitation, will be negatived by Congress?

So we see, Mr. President, that there was not the creation of a debt here by Congress. There was the invalidation of certain of their own acts upon the petition of the Delegate from the Territory, elected by the people themselves, as I am informed. I say again that I know little about this particular case.

Therefore, Mr. President, this case aside, the whole point made by the Senator from Utah and the Senator from Ohio falls to the ground. I am not making any point whether this business—uncommon, unusual, and extraordinary, to say the least—shows that the people are not capable of self-government. I have replied to and attempted to overthrow the conclusion built upon that by the Senator from Utah and the Senator from Ohio, that Congress has created a debt here in the exercise of tyrannical power which resides in us by the Constitution, and I have shown that no such power as that does reside in Congress.

When the Senator from Utah said that this Congress had the power to create a debt of $100,000,000 and put it on Pima County or any other municipality in any Territory, he made a statement which he would not repeat after calm reflection.

Mr. RAWLINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Utah?

Mr. RAWLINS. What I said was that the Supreme Court of the United States had held these bonds invalid and, therefore, not a debt of Pima County. Congress passed an act, and then, when the question as to certain bonds came before the Supreme Court by reason of the act of Congress, the Supreme Court held they had become a debt. I draw the conclusion from those two premises that when the first decision was rendered there was no debt; when the second decision was rendered there had been no action by the Territorial authorities, but only action by Congress. The Supreme Court declared that there was a debt, and therefore Congress by its act made a debt.

Mr. BEVERIDGE. Mr. President, I do not propose to answer the Senator upon that point, because I have stated that I did not intend to argue this case at large or in detail so far as this particular question is concerned. I know nothing of it except as here developed, and the committee's opposition to this bill is not based on it; but well I know, because I wrote it down as the Senator spoke and caught the words from his lips, that the Senator then proceeded to say that it illustrated the whole villainous system under which these people were oppressed, and that Congress had power to declare the people of Pima County should pay $100,000,000. I know it was stated by the Senator from Utah and the Senator from Ohio that Congress could create a debt—"saddle it off," was the phrase used, "upon the people of a Territory."

Mr. TILLMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from South Carolina?

Mr. BEVERIDGE. I do.

Mr. TILLMAN. Do I understand the Senator to claim that the only element of fraud in these bonds was that they were issued in excess of the 4 per cent limitation?

Mr. BEVERIDGE. I know nothing about that, Mr. President. I have said two or three times that I am not familiar with the details of this transaction and am not arguing this transaction.

Mr. TILLMAN. The Senator is simply arguing, then, the constitutional question which the Senator from Utah [Mr. RAWLINS] raised about Congress imposing upon those people a debt of $100,000.

Mr. BEVERIDGE. Yes, I am arguing, Mr. President——

Mr. TILLMAN. That is a moot question.

Mr. BEVERIDGE. I think it is a moot question, too, but the Senator from Utah [Mr. RAWLINS] and the Senator from Ohio [Mr. FORAKER] by their eloquence attempted to vitalize it into a present question, and that present question, really a moot question, thus vitalized, is the question to which I am attempting to reply. I do not know whether I shall be successful or not.

The Senator from Utah may be right about what he said, but I am right about the conclusion he drew and the conclusion the Senator from Ohio drew. The argument which they made upon that point was that this very fact showed that we ought to relieve these people of this tyranny; and I am showing that there is no tyranny, but only protection, from which the people of that Territory may well pray that they shall not be relieved. I do not think the Senator, in fact I know that he would not have sat down and indorsed the statement that the Congress of the United States had the power, unlimited, as he said, to load upon the people of those Territories either one hundred million dollars, or one hundred dollars, or one hundred cents, because, of course, the Senator would not maintain any such proposition. But the whole business brings it down to the wisdom of the limitations of 4 per cent and other limitations, which Congress, in its wisdom, having drawn that wisdom from the wells of experience in this business, has put about the people of those Territories.

I say further that it illustrates merely this, that when the people have a cause, as in the case of the Maricopa County bonds which is now before the Senate, which justifies Congress in taking those limitations off from any locality, they can depend upon the good judgment, the good sense, the wisdom, and the patriotism of Congress to temporarily suspend that limitation. Instead, therefore, of tyranny, we have merely wisdom; instead of arbitrary power, we merely have the application of common sense and common justice to save the people of these new communities from the spoilers until they are strong enough and numerous enough to carry on a State government of their own.

The PRESIDENT pro tempore. The bill is before the Senate, as in Committee of the Whole, and open to amendment.

Mr. BEVERIDGE. Mr. President, the Senator from Massachusetts [Mr. LODGE]—I do not know where he is now—was about to take the floor upon this bill when this debate, most unexpected, was precipitated upon the Senate. I understand he desires to go on in the morning. If that is agreeable——

Mr. QUAY. Mr. President——

Mr. SCOTT. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore. The Senator from West Virginia moves that the Senate proceed to the consideration of executive business.

Mr. QUAY. Mr. President, I suggest there is not a quorum of the Senate present.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich,	Cockrell,	Harris,	Platt, Conn.
Alger,	Culberson,	Heitfeld,	Quay,
Allison,	Cullom,	Hoar,	Rawlins,
Bacon,	Dolliver,	Jones, Ark.	Scott,
Bate,	Dryden,	Jones, Nev.	Simmons,
Berry,	Dubois,	Kean,	Simon,
Beveridge,	Elkins,	Kittredge,	Stewart,
Blackburn,	Foraker,	McCumber,	Taliaferro,
Burnham,	Foster, Wash.	McEnery,	Tillman,
Burrows,	Frye,	McLaurin, Miss.	Turner,
Burton,	Gallinger,	Martin,	Warren,
Carmack,	Gamble,	Mason,	Wellington.
Clapp,	Gibson,	Nelson,	
Clark, Wyo.	Hale,	Penrose,	
Clay,	Hansbrough,	Perkins,	

Mr. BEVERIDGE. My colleague [Mr. FAIRBANKS] is unavoidably absent.

Mr. MCLAURIN of Mississippi. My colleague [Mr. MONEY] is unavoidably detained from the Senate by sickness in his family.

Mr. SIMMONS. I wish to announce that my colleague [Mr. PRITCHARD] is unavoidably absent from the Senate on account of illness.

The PRESIDENT pro tempore. In response to the roll call 57 Senators have answered to their names. There is a quorum present.

Mr. QUAY. Now, I ask for the yeas and nays on the motion to proceed to the consideration of executive business.

Mr. SCOTT. Mr. President, I have no desire whatever to try to force the Senate into an executive session, if the Senator from Pennsylvania has any business of importance to present. But certainly there are confirmations which we should take up, and my sole object in making the motion was to attend to them. Therefore I withdraw the motion to go into executive session.

Mr. BEVERIDGE. Mr. President, as I stated a moment ago, the Senator from Massachusetts [Mr. LODGE] had prepared to follow the Senator from New Hampshire [Mr. BURNHAM], but a debate suddenly sprang up here this afternoon and has occupied the attention of the Senate until this moment. Otherwise the Senator from Massachusetts would now be on his feet addressing the Senate, and would address it no doubt at any length satisfactory to the Senator from Pennsylvania. He is now out of the Chamber, however, and has notified me that he desires to go on to-morrow morning.

Unless the Senator from Pennsylvania desires to hold the Senate in night session and in continuous session, there is no reason why we should not adjourn at this hour. If it is the Senator's desire to put this matter, not to the test of argument within usual hours, when we will meet the Senator by legitimate debate, but merely to a test of sheer physical strength, so far as I am concerned I am inclined to accommodate the Senator. I think, perhaps, we will stand that sort of business as long as anybody. But it is not done, if it is done, Mr. President, for the purpose of having the Senate hear a usual debate in usual hours, and the Senator from Pennsylvania knows it. This debate has proceeded, especially during the last week, along most legitimate lines, as is demonstrated by the fact that upon almost every day Senators on the other side of this question have engaged Senators on this side of the question. That is, both sides——

Mr. FORAKER. Will the Senator allow me to call his attention to the fact that the Senator from Massachusetts [Mr. LODGE] is just outside the door looking into the Chamber? [Laughter.]

Mr. BEVERIDGE. I have no doubt we are greatly benefited by the attention of the Senator from Massachusetts, whenever he gives it, through the door or otherwise, and the Senator from Ohio has demonstrated the fact that he is a most excellent watchman

for the Senate. The Senator from Pennsylvania [Mr. QUAY] the other day designated himself as the scimiter of the Senate [laughter], and now we can designate the Senator from Ohio, by his own act, as the watchman of the Senate; and between the scimiter and the watchman——

Mr. FORAKER. While we are at it, what shall we say of the Senator from Indiana?

Mr. BEVERIDGE. I think you are quite competent to take care of that subject. I feel safe in the hands of the Senator from Ohio.

What I was saying before was in entire earnest. I say that if it is meant to reduce this matter, not to a question of the contest of argument, which has proceeded most legitimately and according to usual methods, but to a sheer question of physical endurance, in the attempt to hold the Senate up until this bill shall be passed or all legislation defeated, I for one shall not resist it. But the Senator can not expect that those of us upon this side who are prepared to argue this matter before the Senate in the usual hours and in the usual way will be forced by a night session and unusual and illegitimate hours to use the same argument that we would make during the usual hours of this body.

Nobody can say that the debate which has proceeded here for a week has been uncommon or extraordinary. Upon the contrary, that it has been a most legitimate debate is proven by the fact it has been participated in most vigorously by Senators on the other side—by Senators supporting the Senator from Pennsylvania. It has been participated in with great vigor, and to the edification of this body, by the Senator from Ohio, by the Senator from Utah, by the Senator from Georgia, by the Senator from Nevada, by the Senator from Kansas, by the Senator from North Dakota.

Is debate like that, Mr. President, any evidence that there is delay? Not at all. If, then, it be established that this debate has proceeded thus far along usual and legitimate lines, as is proven by the fact that both sides have participated in it, I do not know what reason there can be for the Senator to ask a continuous session, as his attitude leads me to believe he is asking. He may ask it, if he will. I for one will not contest the point with him. I accept the challenge which the Senator seems inclined to throw down; but if he does so challenge us he may know that he will be required to keep a quorum in this Chamber ever five minutes. Methods like those, most unusual and uncalled for, are to be met by the requirement that those who say it shall be done shall stay here while it is done.

Mr. QUAY. Mr. President, there is no question of physical endurance involved in a protraction for some time of to-day's session. On the mere matter of physique, as a matter of course, the opponents of the statehood bill are fully the equals of its advocates. But it is desired by the friends of the bill to make progress to-day, and it is believed that by continuing the session a few hours longer we may dispose, as I have said before, of some of the brushwood in the face of important legislation in this body outside of the statehood bill.

There is no desire to interfere with the physical comfort of any Senator on this floor, and there is no desire, either, to protract debate upon this question, and if the opponents of the bill will to-day name a date for a final vote, any time within thirty days from to-day, I will guarantee that there will be no further disposition upon the part of its friends to press the discussion of this bill. As it is, my proposition is that we sit to-night to make some progress with the bill—the proposition which was imagined by, but, I think, not communicated to, the Senator from Indiana.

Mr. BEVERIDGE. I am not a mind reader, and when the Senator is imagining a proposition he might communicate it. There is no desire on the part of the opponents of the bill not to continue or press the debate upon it. On the contrary, we do intend to press debate upon it; and day by day have done so.

The Senator from Pennsylvania the other day said he hoped the Senator from Indiana was prepared to put up his men. It was most unusual language for the Senate of the United States, where Senators representing great States are supposed to debate upon and reason the questions which come before them and the measures upon which they are to pass. But if the Senator meant by "putting up his men" that Senators upon our side of the controversy ought to be prepared to argue the question before the Senate, I will assure the Senator that the Senator from Indiana will "put up his men." They are not my men, or anybody's men—and that suggests a difference not necessary now to enlarge upon. They are men who, of their own volition, propose to argue this question to the Senate of the United States, as is their duty under their oaths, as they conceive it, and to give to the Senate and to the country their reasons for their attitude upon this matter.

But is it reasonable for the Senator to ask them to do that in unusual and illegitimate and desperate hours? We do not think so. We think that is a mere challenge to physical endurance; and if it is such, I say to the Senator, "We take up your challenge." I will not resist the Senator's attempt to do anything of the kind, but he can not expect that arguments, serious, well-considered, carefully prepared, which Senators—and Senators of experience and eminence equal to that of the Senator from Pennsylvania, great as that is—have been preparing upon points which have not yet been answered will be delivered in unusual and extraordinary hours. Therefore the Senator must be prepared to receive what he ought to expect. If he wants to continue the session, he can continue it without opposition from me, but he must understand——

Mr. BURTON. Mr. President——

Mr. BEVERIDGE. No; excuse me just a moment. He must understand that he will not get that kind of argument, and furthermore that he will be required to keep the quorum which decides upon that thing in the Senate Chamber every five minutes.

Mr. LODGE. Mr. President, it was my intention to speak this afternoon on the statehood bill. I have here some notes that I have been making. I had prepared myself to speak upon this question, and I was to go on when the Senator from New Hampshire [Mr. BURNHAM] concluded in the afternoon. The debate upon the Pima County bonds sprang up, and the whole afternoon has been consumed.

What I desire to say on this bill, which I regard as an important measure, I have prepared with some care; and although it may seem to the Senator from Pennsylvania merely the brushwood of the debate that is to be cleared away, it does not appear so to me. I should like to speak at a reasonable time. I have been in the Capitol, as all other Senators have been, since 10 or half past 10 o'clock this morning. I do not want to go on at this hour and make the argument I desire to make, and I confess I am tired, as I suppose we all are.

I remember that when I was trying to get the Philippine bill through last year, the Senator from Arkansas [Mr. JONES] said to me, I think more than once, that he thought nothing would be gained by stringent and harassing methods. It was a moment when I was extremely anxious to get a vote, when the temptation to press the Senate into unusual hours was very strong, but I acceded——

Mr. CARMACK. Mr. President——

The PRESIDING OFFICER (Mr. PERKINS in the chair). Does the Senator from Massachusetts yield to the Senator from Tennessee?

Mr. LODGE. I will yield to the Senator in a moment. But I yielded to the advice of the Senator from Arkansas, as he is well aware. I endeavored to avoid in that debate any harassing of Senators. I do not recall that I ever insisted on any Senator going on when he expressed a desire to be relieved; and I did not press it unduly.

If we undertake night sessions and unusual hours, harassing methods, they are sure to lead to corresponding methods of obstruction. The Senator from Pennsylvania is as well aware of that as any Senator in this Chamber. He knows what is the capacity for obstruction under the Senate rules. We all remember when he made a certain tariff speech here, and finally that speech became so impressive that he merely had to draw the manuscript out and place it on his desk and at the sight of the manuscript the managers of the bill would accept his amendment.

I remember coming into the Senate one afternoon. I went into the cloakroom, and I met the Senator from Pennsylvania walking up and down the room, smoking his cigar, I think, and I said to him, "What is going on in the Senate?" He said, "I am making a speech." [Laughter.] I found he had been fatigued, which was not surprising, and the Senator from New Hampshire [Mr. GALLINGER] was kindly reading a portion of his manuscript for him, and when he recovered he came in and renewed his speech.

I do not instance that except to show that there is a capacity for obstruction which is very great under the Senate rules if Senators will resort to it. But it will not be resorted to, and it never will be resorted to, unless Senators are harassed by unusual hours, by being kept here at night. Then obstruction comes, and I have never seen it advance legislation at all.

I remember very well the long struggle of three months the first year I was in the Senate, when we had the contest over the repeal of the Sherman Act. We were held here then in continuous session. It did not advance or quicken the action on that bill one particle, and I do not think those extreme measures ever do. They produce more or less irritation, a great deal of discomfort, but they can not advance measures, because they give rise at once to the tactics of obstruction; and the tactics of obstruction are infinite under these rules.

Now, on the very matter of the morning hour, if those of us who are opposed to the statehood bill were disposed to filibuster or make obstruction, the Senator from Pennsylvania is well aware that we have nothing to do but to have bills read at the desk. We can call for the first reading of every bill. We can have bills read at the desk and kill the morning hour entirely. But, Mr. President, I think it is most undesirable to resort to

such measures. I do not want to sit here and call for a quorum and fill up the time by reading from books, and try to get through the night in that way. It seems to me it leads to no good object.

I have been led on to make these general remarks simply because I was the Senator who was going on this afternoon. I was all ready to go on. I had prepared with some care what I might wish to say in order not to consume a great deal of time. It is not a written speech. I am very averse—in fact, I not desire to go on with that speech to-night. I want to deliver the speech, such as it is, when I am reasonably fresh and in the course of the day, when the Senate is more disposed to listen to arguments than it can be at the end of a long and fatiguing day. I hope that we shall not be pressed into a night session to-night.

Mr. CARMACK. Will the Senator from Massachusetts excuse me for a moment?

Mr. LODGE. Certainly.

Mr. CARMACK. I want to ask the Senator a question. He spoke of his efforts to get a vote on the Philippine bill. Did he not press and secure from the minority an agreement to vote at a fixed time, and did he not also have assurances all through that there was no purpose on the part of those who were opposing the Philippine bill to prevent a vote on the bill? Is there not that difference between that case and this? Here there is a purpose to prevent any vote on the pending bill. If that is not proclaimed openly on the floor, it is proclaimed no less openly in private conversation. It is said that those who are opposing this bill do not intend that the Senate shall have an opportunity to vote on it if they have to prolong the debate until the end of the session.

Mr. LODGE. Mr. President, seven weeks elapsed before I got an agreement to vote on the Philippine bill, and we were then sitting every day. No recess had intervened, as there has in this case, and a great deal of time has been taken up with other matters.

Mr. QUAY. Will the Senator from Massachusetts allow me to interrupt him for a moment?

Mr. LODGE. Certainly.

Mr. QUAY. The point in the suggestion of the Senator from Tennessee and the distinction between the two cases is this: During all that term of protracted debate the Senator from Massachusetts had the assurance that he was to have a vote on his bill. If the Senator from Massachusetts and the Senator from Indiana and the other Senators on this floor who are opposing this bill intimate anything they intimate that we will never have a vote on it. That is a very marked difference between the Philippine bill and the statehood bill.

Mr. LODGE. Assurances were given at various times by the opposition that they would allow a vote some time on the Philippine bill. I remember that; but I also remember very well that there have been plenty of measures before the Senate as to which no such assurances were ever given. I am not speaking of myself with respect to the pending bill, for I have no right to give or withhold assurances. I remember that on the silver bill no assurance of any kind was ever given.

Mr. HOAR. Will my colleague allow me? A Senator rose in his place on the silver bill and said, "You all know very well that you never can get a vote on this bill."

Mr. STEWART and Mr. DUBOIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. STEWART. Mr. President, there have been during my short service in the Senate many efforts to adopt the previous question with some limitations. The reply always has been that a majority would finally reach a vote; that there would be a vote on the subject during the session, always, and it was difficult to point to a case where a vote had been prevented. The majority got an opportunity to vote. Consequently those in favor of free discussion gave up the effort for the previous question. The liberty of debate here has at all times depended upon the understanding that a vote would be had during the session in any case where there was a clear majority.

With respect to this bill, there is a clear majority in its favor, as the vote shows. Long speeches have been made. It is said they have not been made for the purpose of delay, but no one would want to talk three or four days on this bill if he did not want to consume time. It is too obvious that they are consuming time. There is no question about that. I hear it on every hand that there shall not be a vote on this question. If that is pressed and there can not be a vote on this question, what becomes of the argument in favor of free speech here? It is the only body in the United States, almost in the world, where there is really free speech and deliberation. It is preserved by the moderation and good sense of the Senate.

I think this has gone far enough. If the opposition will not agree on a day to vote, to carry out what has been the general understanding of the Senate, and if there can not be a vote upon this measure, the party in favor of the previous question, the gag rule, will prevail, and that very soon. Heretofore it has been impossible to show where a great outrage had been committed, where the majority had been thwarted absolutely; and attention being called to that fact, everybody has yielded. It was said, "You had better go on and delay some and have long debates and some inconvenience rather than be deprived of the privilege of free speech and unlimited discussion," which I regard as one of the most important factors in free government. There ought to be a place where there is no limitation upon debate, except what the body may place upon itself; but after debate is exhausted, there ought to be a vote.

I think the minority, if they will think it over, will agree that they had better give an assurance, as they did in the Philippine case, that there will be a vote; and that will silence everything. Let us fix a day. Then everybody will be satisfied, and the will of the majority will be carried into effect, which is all important. The will of the majority should prevail. That is one important and necessary thing; and the other is that we have free speech, and be untrammeled. I hope the Senate on this occasion will come up to its former standard and maintain its historical record of allowing a majority to have a vote upon this important question.

Mr. CARMACK. Mr. President, the case cited by the junior Senator from Massachusetts and the suggestion made by the senior Senator from Massachusetts were in reference to a clear case of filibuster on the silver bill. The senior Senator from Massachusetts said they were openly notified by the opponents of the bill that they never intended that a vote should be had. If that is true it was a clear case of filibustering, and constitutes no precedent or justification for this action, unless the gentlemen themselves are filibustering.

Mr. ALLISON. We did have a vote on the silver bill.

Mr. CARMACK. You had a vote finally.

Mr. BERRY. We admitted we were filibustering.

Mr. CARMACK. Yes.

Mr. HALE. Mr. President, everybody who has been in the Senate any great length of time can not fail sometimes in rather amusing fashion to see how Senators change their minds according to the situation. I know I commiserated the Senator from Massachusetts [Mr. LODGE] at the last session when he had in charge the Philippine bill. Managing it as he did, with great good nature and good sense, and not, to use his word, harassing anybody, still at times he felt very impatient, and he thought we ought to have a rule to bring Senators right up to the ringbolt and make them vote. I used to say to him, "That is this side of the question just now; some time there will be positions and conditions where you and I will not feel as we do about this matter."

The general good sense of the Senate settles all those questions. On any debatable subject, where the lines are drawn, not party lines, but between for and against, we have to go on in a reasonable way and do things.

I have not any idea, Mr. President, that this morning when we came here any Senator supposed he was going to be asked to stay all night and fritter away the session. Night sessions do not accelerate the progress of any measure. Every one of us who has had any experience in such sessions knows that they all result in the same thing.

The Senator from Pennsylvania was very good-natured in managing this matter, and I do not blame him for resorting to just what he has resorted to; but he has a determined force against him, as he has a determined force in his favor, and he can not hold the Senate here to-night through the whole night. If he tries it, it will have the invariable result that after a little time Senators on both sides who had not expected to stay here will not stay, and there will be a demonstration of a desire to force this measure, and it will end in an adjournment. That is what it will end in. It will end in an adjournment.

I am inclined to think now that if the Senator from Pennsylvania should make a motion to adjourn, he would have the unanimous consent of his side and this side, too. I am inclined to think that if I made the motion it would carry, not that it would indicate that Senators on his side are not faithful to him, but they do not expect and did not expect this morning to stay here.

Now, there is great force in what the Senator from Massachusetts [Mr. LODGE] has put in good-natured fashion. He did not precipitate the debate to-day. He was really and actually ready to go on, but some kind friend suggested that we have a roll call, to get him a good audience. All the Senators were here, and he was ready to go on. He was interrupted by a discussion, not on any side matter, not on foreign, extraneous matter——

Mr. BERRY. Will the Senator from Maine permit me?

Mr. HALE. Certainly.

Mr. BERRY. The Senator is mistaken. The Senator from Massachusetts yielded to the Senator from Connecticut [Mr. PLATT] to make a speech, and then the other debate arose.

Mr. LODGE. No; I never took the floor at all. I was ready to take the floor.

Mr. HALE. The Senator from Massachusetts was ready to take the floor when the Senator from Connecticut spoke.

Mr. BERRY. As I remember it the Senator from Connecticut began his statement by saying that the Senator from Massachusetts was going to make a speech, but had in the meanwhile yielded to him for a short statement.

Mr. HALE. I know the Senator from Massachusetts had not taken the floor.

Mr. BERRY. That is my recollection about it, and the Senator from Connecticut did take the floor and thereupon the debate arose.

While I am up I should like to ask the Senator from Maine a question, if he will answer it. The Senator from Maine says that this thing of a vote has always been settled by the good sense of the Senate, that nothing has ever been made by staying at night session, and the Senate has always shown a desire to finally settle it. Now, this bill has been pending here since the 10th day of December, I think, and this is the 27th of January. I ask the Senator if he does not think it has been going on long enough to have some reasonable day in the future fixed when a vote can be had?

Mr. HALE. Mr. President, I have not yet had a chance to make a speech on it myself. I wish to discuss the whole subject-matter. I have very strong views on it. I have never had a chance to discuss it, and I do not think any question about taking a vote on any given day should be forced upon us until Senators have had an opportunity to be heard.

But I do not want to go into that. I only wanted to call to the minds of Senators their individual experience about this plan of holding Senators here, without notice, in a night session, and obliging a Senator who is ready to go on at 2 or 3 o'clock to proceed at 6 o'clock or half past 6.

Mr. QUAY rose.

Mr. HALE. I am inclined to make the motion myself, unless the Senator from Pennsylvania rises for that purpose.

Mr. QUAY. He does not, but will very distinctly antagonize it. I rose to ask whether I might interrupt the Senator?

Mr. HALE. Oh, yes.

Mr. QUAY. I wish to ask him whether he can possibly be brought to agree that a vote upon this question shall be taken at 2 p. m. on Tuesday, the 17th of February?

Mr. HALE. I have no doubt that that is a very nice hour in the day, Mr. President, and I have no doubt it is a very good day in itself. I do not know of anything in nature which opposes it. But I am not prepared now to agree to that or to any other proposition, I will say to the Senator frankly.

Mr. QUAY. I think I can make one. The Senator is a fair-minded man and certainly would agree that a vote should be be taken at some time before the 3d of March.

Mr. HALE. Well, I am not prepared——

Mr. ALDRICH. Why not after the 3d of March?

Mr. QUAY. Because Congress will not be in session.

Mr. ALDRICH. It will be in session next December.

Mr. HALE. The Senate is now here, and I will risk making a motion that the Senate do now adjourn.

Mr. QUAY. On that let us have the yeas and nays.

The PRESIDING OFFICER. The Senator from Maine moves that the Senate do now adjourn, on which the yeas and nays are demanded.

Mr. QUAY. I desire to repeat what I said. I have no desire to interfere with the physical comfort of anyone.

Mr. BEVERIDGE. Mr. President, debate is not in order.

The PRESIDING OFFICER. Debate is not in order. The yeas and nays are demanded.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. DOLLIVER (when his name was called). I am paired with the senior Senator from Mississippi [Mr. MONEY].

Mr. DUBOIS (when his name was called). I am paired with the Senator from Oregon [Mr. MITCHELL]. I understand that my pair has been transferred to the Senator from Indiana [Mr. FAIRBANKS]. With that understanding, I vote "nay."

Mr. PLATT of Connecticut (when Mr. HAWLEY'S name was called). My colleague [Mr. HAWLEY] is absent from the Senate on account of his health. He is paired, I understand, with the Senator from Colorado [Mr. TELLER].

Mr. HOAR (when his name was called). I am paired with the Senator from Alabama [Mr. PETTUS].

Mr. KITTREDGE (when his name was called). I have a general pair with the junior Senator from Colorado [Mr. PATTERSON]. If he were here, I should vote "yea."

Mr. MCENERY (when his name was called). I am paired with the junior Senator from New York [Mr. DEPEW], and withhold my vote. If he were present, I should vote "nay."

Mr. NELSON (when his name was called). I have a general pair with the junior Senator from Missouri [Mr. VEST].

Mr. QUARLES (when his name was called). For the purposes of this question I stand paired with the Senator from Louisiana [Mr. FOSTER]. If he were present, I should vote "yea."

Mr. RAWLINS (when his name was called). I am paired with the Senator from Ohio [Mr. HANNA]. If he were here, I should vote "nay."

Mr. SIMMONS (when his name was called). I am paired with the Senator from Minnesota [Mr. CLAPP]. I do not know whether he has voted.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. CLAPP] has not voted, the Chair is informed.

Mr. SIMMONS. If he were present, I should vote "nay."

Mr. TILLMAN (when his name was called). I have a general pair with the Senator from Vermont [Mr. DILLINGHAM]. I therefore withhold my vote. If I were at liberty to vote, I would vote "yea."

Mr. BEVERIDGE. The Senator from Vermont [Mr. DILLINGHAM] would undoubtedly vote "yea." So that releases the Senator from South Carolina from his pair, if he desires to vote.

Mr. TILLMAN. I prefer to observe the pair in his absence, not knowing what he would do on this occasion.

The roll call was concluded.

Mr. ALDRICH. My colleague [Mr. WETMORE] is absent on account of slight illness, and is paired with the Senator from Georgia, I think.

Mr. BEVERIDGE. Which Senator from Georgia?

Mr. ALDRICH. He is paired with the Senator from Louisiana, I understand.

Mr. BLACKBURN (after having voted in the negative). I will inquire if the junior Senator from Maryland [Mr. MCCOMAS] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. BLACKBURN. Then I will withdraw my vote. I am paired with the junior Senator from Maryland.

Mr. BEVERIDGE (after having voted in the affirmative). I am reminded that I have a pair extending over two days, of which this is one, with the senior Senator from Montana [Mr. CLARK]. I assume that he would vote "nay" if he were here. Therefore I withdraw my vote, though it is perfectly immaterial to me how I did vote. I do not care.

Mr. CULBERSON. My colleague [Mr. BAILEY] has a general pair with the senior Senator from West Virginia [Mr. ELKINS], but I understand that temporarily he is paired with the Senator from Wisconsin [Mr. SPOONER].

Mr. GIBSON (after having voted in the negative). I inquire if the junior Senator from Utah [Mr. KEARNS] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. GIBSON. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. QUARLES. I desire to state that my colleague [Mr. SPOONER] is absent from the city on necessary business. I wish to inquire if the Senator from Tennessee [Mr. CARMACK] is present?

Mr. BERRY. The Senator from Tennessee [Mr. CARMACK] has voted. The Senator's colleague is paired with the Senator from Texas [Mr. BAILEY].

Mr. QUARLES. Then a transfer was made.

Mr. BATE. The pair was transferred from the Senator from Tennessee [Mr. CARMACK] to the Senator from Texas [Mr. BAILEY].

Mr. TALIAFERRO. I desire to state that my colleague [Mr. MALLORY] left the Senate not feeling very well. He has a general pair with the senior Senator from Vermont [Mr. PROCTOR].

Mr. MCLAURIN of Mississippi. I will announce for the entire day that my colleague [Mr. MONEY] is unavoidably absent from the Senate because of sickness in his family, and he has a general pair with the Senator from Iowa [Mr. DOLLIVER].

Mr. SIMMONS. I wish to announce that my colleague [Mr. PRITCHARD] is absent on account of illness.

The result was announced—yeas 17, nays 29; as follows:

YEAS—17.

Aldrich,	Clark, Wyo.	Hale,	Simon,
Alger,	Cullom,	Kean,	Warren.
Allison,	Dryden,	Lodge,	
Bard,	Frye,	Platt, Conn.	
Burnham,	Gamble,	Scott,	

NAYS—29.

Bate,	Dubois,	Jones, Ark.	Quay,
Berry,	Elkins,	Jones, Nev.	Stewart,
Burrows,	Foraker,	McCumber,	Taliaferro,
Burton,	Foster, Wash.	McLaurin, Miss.	Turner,
Carmack,	Gallinger,	Martin,	Wellington.
Clay,	Hansbrough,	Mason,	
Cockrell,	Harris,	Penrose,	
Culberson,	Heitfeld,	Perkins,	

NOT VOTING—42.

Bacon,	Dolliver,	McLaurin, S. C.	Proctor,
Bailey,	Fairbanks,	Mallory,	Quarles,
Beveridge,	Foster, La.	Millard,	Rawlins,
Blackburn,	Gibson,	Mitchell,	Simmons,
Clapp,	Hanna,	Money,	Spooner,
Clark, Mont.	Hawley,	Morgan,	Teller,
Daniel,	Hoar,	Nelson,	Tillman,
Deboe,	Kearns,	Patterson,	Vest,
Depew,	Kittredge,	Pettus,	Wetmore.
Dietrich,	McComas,	Platt, N. Y.	
Dillingham,	McEnery,	Pritchard,	

So the Senate refused to adjourn.

Mr. BEVERIDGE. Mr. President, I for one am not displeased at the result. I said before, when it became apparent that it was the intention of the Senator from Pennsylvania to resort to the unusual tactics to which he has resorted, if the Senator from Pennsylvania desired to take this matter out of the realms of legitimate discussion and to force us into unusual hours, so far as I was concerned I had no objection to that course; that if he wished to throw down the challenge of a mere test of physical endurance, so far as I was concerned we were willing and prepared to take it up.

It will be found, Mr. President, that the Senator can not expect—no reasonable man who voted to continue here could expect—that the same arguments would be presented during the inexcusable hours in which the Senator has asked us to stay here that the Senators would present during the usual hours in this body. The Senator from Massachusetts [Mr. LODGE] was prepared to go on. The Senator from New Jersey [Mr. KEAN] has prepared an elaborate argument upon this question. He has not his papers here to go on, and, I have no doubt, would not do it at this hour under the circumstances, anyhow.

But I have no doubt, Mr. President, that the Senator from Pennsylvania can be accommodated, and that at once, by a proper demonstration as to how time, unusual and inexcusable, lamplight and midnight time, can be occupied, as given by a precedent established by the Senator from Pennsylvania himself. During legitimate hours we will engage in legitimate debate. During illegitimate hours there is no objection to following the precedent of the Senator from Pennsylvania in this Chamber. I understand that the Senator from Minnesota [Mr. NELSON] is now prepared to proceed to address the Senate and to give a lucid exposition of the way that can be done.

Mr. SCOTT. Will the Senator from Indiana yield to me?

Mr. BEVERIDGE. Yes; I am through.

Mr. SCOTT. I move that the Senate go into executive session.

The PRESIDING OFFICER. The Senator from West Virginia moves that the Senate proceed to the consideration of executive business. [Putting the question.] The noes appear to have it.

Mr. ALDRICH. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BLACKBURN (when his name was called). I shall not again announce my pair with the Senator from Maryland [Mr. MCCOMAS], and will not vote unless the Senator should come into the Chamber.

Mr. CARMACK (when his name was called). I have a general pair with the Senator from Wisconsin [Mr. SPOONER], but as I understand a transfer has been arranged so that he stands paired with the Senator from Oregon [Mr. MITCHELL], I vote "nay."

Mr. GIBSON (when his name was called). I am paired with the Senator from Utah [Mr. KEARNS].

Mr. HOAR (when his name was called). I am paired with the Senator from Alabama [Mr. PETTUS].

Mr. KITTREDGE (when his name was called). I have a general pair with the junior Senator from Colorado [Mr. PATTERSON], but my pair has been transferred to the Senator from Nebraska [Mr. DIETRICH].

Mr. MCENERY (when his name was called). I am paired with the junior Senator from New York [Mr. DEPEW], and withhold my vote. If he were present, I would vote "nay."

Mr. SIMMONS (when his name was called). I am paired with the junior Senator from Minnesota [Mr. CLAPP].

The roll call was concluded.

Mr. BERRY (after having voted in the negative). I notice that the junior Senator from Maine [Mr. FRYE] did not vote. I have a general pair with that Senator, and I ask leave to withdraw my vote.

Mr. JONES of Arkansas (after having voted in the negative). I am informed that since the last vote the Senator from Maine [Mr. HALE] left the Senate Chamber and is not present. I have a general pair with that Senator and withdraw my vote.

Mr. TURNER (after having voted in the negative). Did the senior Senator from Wyoming [Mr. WARREN] vote?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. TURNER. I have a general pair with that Senator, and therefore withdraw my vote.

The result was announced—yeas 10, nays 27; as follows:

YEAS—10.

Aldrich,	Dryden,	Millard,	Scott,
Alger,	Kean,	Platt, Conn.	Simmons.
Allison,	Kittredge,		

NAYS—27.

Bate,	Culberson,	Harris,	Penrose,
Burrows,	Dubois,	Heitfeld,	Perkins,
Burton,	Elkins,	Jones, Nev.	Quay,
Carmack,	Foraker,	McCumber,	Stewart,
Clark, Wyo.	Foster, Wash.	McLaurin, Miss.	Taliaferro,
Clay,	Gallinger,	Martin,	Wellington.
Cockrell,	Hansbrough,	Mason,	

NOT VOTING—51.

Bacon,	Dietrich,	Kearns,	Pritchard,
Bailey,	Dillingham,	Lodge,	Proctor,
Bard,	Dolliver,	McComas,	Quarles,
Berry,	Fairbanks,	McEnery,	Rawlins,
Beveridge,	Foster, La.	McLaurin, S. C.	Simon,
Blackburn,	Frye,	Mallory,	Spooner,
Burnham,	Gamble,	Mitchell,	Teller,
Clapp,	Gibson,	Money,	Tillman,
Clark, Mont.	Hale,	Morgan,	Turner,
Cullom,	Hanna,	Nelson,	Vest,
Daniel,	Hawley,	Patterson,	Warren,
Deboe,	Hoar,	Pettus,	Wetmore.
Depew,	Jones, Ark.	Platt, N. Y.	

The PRESIDING OFFICER. No quorum has voted.

Mr. QUAY. Mr. President, I desire to announce now that on to-morrow I shall ask the Senate to remain in continuous session. In view of the fact that there was no quorum revealed upon the last vote and for the further reason that I do not desire to discommode the absent Senators to-night, I move that the Senate do now adjourn.

The motion was agreed to; and (at 6 o'clock and 22 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January, 28, 1903, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 27, 1903.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

JOEL C. SHEPHERD.

The SPEAKER laid before the House the following Senate bill, with House amendments, disagreed to by the Senate:

A bill (S. 5835) granting an increase of pension to Joel C. Shepherd.

Mr. BROMWELL. Mr. Speaker, I move that the House insist on the amendments of the House and agree to the conference asked by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. LOUDENSLAGER, Mr. BROMWELL, and Mr. RICHARDSON of Alabama.

WILLIAM MONTGOMERY.

The SPEAKER also laid before the House the bill (H. R. 16224) granting an increase of pension to William Montgomery, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

MARGARET ANN WEST.

The SPEAKER also laid before the House the bill (H. R. 13944) granting a pension to Margaret Ann West, with a Senate amendment, which was read.

Mr. SULLOWAY. I move concurrence in the Senate amendment.

The motion was agreed to.

MILTON NOAKES.

The SPEAKER also laid before the House the bill (H. R. 12701) granting an increase of pension to Milton Noakes, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

HORACE FOUNTAIN.

The SPEAKER also laid before the House the bill (H. R. 12563) granting an increase of pension to Horace Fountain, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

CORA E. BROWN.

The SPEAKER also laid before the House the bill (H. R. 12324) granting a pension to Cora E. Brown, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

HENRY J. FELTUS.

The SPEAKER also laid before the House the bill (H. R. 11280) granting an increase of pension to Henry J. Feltus, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

JOSIAH S. FAY.

The SPEAKER also laid before the House the bill (H. R. 10826) granting an increase of pension to Josiah S. Fay, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

ROBERT STEWART.

The SPEAKER also laid before the House the bill (H. R. 9658) granting an increase of pension to Robert Stewart, with a Senate amendment, which was read.

Mr. SULLOWAY. I move concurrence in the Senate amendment.

The motion was agreed to.

WILLIAM S. HUTCHINSON.

The SPEAKER also laid before the House the bill (H. R. 8152) granting an increase of pension to William S. Hutchinson, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

NANCY A. KILLOUGH.

The SPEAKER also laid before the House the bill (H. R. 7815) granting a pension to Nancy A. Killough, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

WILLIAM L. WHETSELL.

The SPEAKER also laid before the House the bill (H. R. 4923) granting a pension to William L. Whetsell, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

DANIEL J. REEDY.

The SPEAKER also laid before the House the bill (H. R. 11197) granting a pension to the minor children of Daniel J. Reedy, with a Senate amendment, which was read.

Mr. BROMWELL. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

SUSAN KENNEDY.

The SPEAKER also laid before the House the bill (H. R. 623) granting a pension to Susan Kennedy, with a Senate amendment, which was read.

Mr. BROMWELL. Mr. Speaker, I move concurrence in the Senate amendment.

The motion was agreed to.

BUSINESS OF COMMITTEE ON THE JUDICIARY.

Mr. GROSVENOR. Mr. Speaker, I make the following report from the Committee on Rules.

The SPEAKER. The gentleman from Ohio makes the following report from the Committee on Rules, which the Clerk will report.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House No. 394, have had the same under consideration, and report the same herewith, with the recommendation that it be agreed to by the House.

House resolution No. 394.

Resolved, That immediately upon the adoption of this order the remainder of this day shall be set apart for the consideration of bills presented by the Committee on the Judiciary; and if any bill shall be under consideration and undisposed of at the adjournment on this said day, the same shall be considered as unfinished business.

The question was taken, and the resolution was agreed to.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin, chairman of the Committee on the Judiciary.

COUNTY OF DIMMIT, TEX.

Mr. JENKINS. Mr. Speaker, I desire to call up for consideration the bill (H. R. 16330) to detach the county of Dimmit from the southern judicial district of Texas and to attach it to the western judicial district of Texas.

The Clerk read the bill, as follows:

Be it enacted, etc., That the county of Dimmit, in the State of Texas, is hereby detached from the southern and is hereby attached to the western judicial district of Texas.

SEC. 2. That all offenses heretofore committed in said county of Dimmit of which the district court of said southern judicial district has jurisdiction and upon which proceedings have been taken shall be tried and prosecuted in said southern judicial district, and civil suits and proceedings now pending in the circuit or district courts in said State shall not be affected by this act.

SEC. 3. That hereafter all processes issued against defendants residing in said county of Dimmit shall be returned to San Antonio, Tex. All offenses committed in said county of Dimmit in which proceedings have not been begun shall be prosecuted in said western district.

SEC. 4. That all laws and parts of laws, so far as in conflict herewith, are hereby repealed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

TERMS OF UNITED STATES COURTS IN EASTERN DIVISION, EASTERN DISTRICT, ARKANSAS.

Mr. JENKINS. Mr. Speaker, I desire to call up the bill (H. R. 16333) to change and fix the time for holding district and circuit courts of the United States for the eastern division of the eastern district of Arkansas.

The Clerk read the bill, as follows:

Be it enacted, etc., That the regular terms of the United States district and circuit courts for the eastern division of the eastern district of Arkansas hereafter be held at Helena, Ark., on the second Monday in March and the first Monday of October in each year instead of the times now fixed by law.

SEC. 2. That this act shall take effect and be in force from and after its passage.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

TERMS OF UNITED STATES COURT IN NORTHERN AND MIDDLE DISTRICTS OF ALABAMA.

Mr. JENKINS. Mr. Speaker, I call up the bill (H. R. 16651) to fix the time for holding the United States district and circuit courts in the northern and middle districts of Alabama.

The Clerk read the bill, as follows:

Be it enacted, etc., That hereafter the regular terms of the district and circuit courts of the United States for the middle district of Alabama shall be held at Montgomery, Ala., on the first Tuesdays in May and December of each year.

SEC. 2. That the regular terms of the district and circuit courts of the United States for the northern division of the northern district of Alabama shall be held at Huntsville, Ala., on the first Tuesday in April and the second Tuesday in October of each year.

SEC. 3. That the regular terms of the district and circuit courts of the United States for the southern division of the northern district of Alabama shall be held at Birmingham, Ala., on the first Tuesdays of March and November of each year.

SEC. 4. That no action, suit, proceeding, information, indictment, recognizance, bail, bond, or any other proceeding or process in either of said courts shall abate or be rendered invalid by reason of the change of time in the holding of said courts, but the same shall be deemed returnable, pending, or triable at the terms herein provided for.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

TERM OF UNITED STATES COURT IN ADDISON, W. VA.

Mr. JENKINS. Mr. Speaker, I now call up the bill (S. 5914) establishing a regular term of United States district court in Addison, W. Va.

The Clerk read the bill, as follows:

Be it enacted, etc., That the regular term of the district court of the United States for the southern district of West Virginia shall be held in each year in the city of Addison, W. Va., on the first Monday in September: *Provided*, That accommodations for said term of court shall be furnished without cost to the United States.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

UNITED STATES COURT AT DUNCAN AND MARYETTA, IND. T.

Mr. JENKINS. Mr. Speaker, I desire to call up the bill (H. R. 16775) establishing United States court at Duncan and Maryetta, Ind. T.

The Clerk read the bill, as follows:

Be it enacted, etc., That in addition to the places now provided by law for holding courts in the southern judicial district of Indian Territory courts shall be held in the towns of Duncan and Maryetta; and all laws regulating the holding of courts in the Indian Territory shall be applicable to the said

courts hereby created in the said towns of Duncan and Maryetta, respectively.

The following committee amendments were read:

After the word "Maryetta," line 5, insert:

and Comanche; and the court held at Ryan, in said Territory, is hereby discontinued and the records thereof transferred to the town of Comanche.

After the word "Maryetta," line 11, insert "and Comanche."

Amend the title so as to read: "A bill establishing United States courts at Duncan, Maryetta, and Comanche, Indian Territory."

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. JENKINS a motion to reconsider the last vote was laid on the table.

MINIMUM PUNISHMENT IN CERTAIN CASES IN INDIAN TERRITORY.

Mr. JENKINS. Mr. Speaker, I now call up the bill (S. 3512) concerning minimum punishment in certain cases arising in the Indian Territory.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 33 of the act of Congress of May 3, 1890, entitled "An act * * * to enlarge the jurisdiction of the United States courts in the Indian Territory, and for other purposes," is hereby amended by adding the following proviso:

"*Provided*, That in all cases where punishment prescribed by the laws of Arkansas is adopted by said section, the court shall not be compelled thereby to impose the minimum punishment established therein, but may in its discretion impose a less punishment by way of fine or imprisonment, or both, as justice shall seem to require."

The committee amendment was read, as follows:

Strike out all after the enacting clause and insert:

"That any person, whether an Indian or otherwise, who shall hereafter be convicted in the Indian Territory of stealing any horse, mare, gelding, filly, foal, mule, ass, or jenny, or of stealing, or marking, killing, or wounding with intent to steal, any kind of cattle, pigs, hogs, sheep, or goats, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than fifteen years, or by both such fine and imprisonment, at the discretion of the court.

"SEC. 2. That all acts and parts of acts inconsistent with this act are hereby repealed: *Provided, however*, That all such acts and parts of acts shall remain in force for the punishment of all persons who have heretofore been guilty in the Indian Territory of the offense or offenses herein mentioned: *And provided further*, That this act shall not affect or apply to any prosecution now pending or the prosecution of any offense already committed."

Amend the title so as to read: "An act fixing the punishment for the larceny of horses, cattle, and other live stock in the Indian Territory, and for other purposes."

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

TERMS OF UNITED STATES COURTS IN COLORADO.

Mr. JENKINS. Mr. Speaker, I now call up the bill (H. R. 16334) fixing terms of the United States courts in Colorado.

The bill was read, as follows:

Be it enacted, etc., That the terms of the district and circuit courts of the United States in and for the district of Colorado shall be held at the times and places hereinafter designated, namely: At Denver on the first Tuesdays in May and in November in every year; at Pueblo on the first Tuesday in April annually; at Del Norte on the first Tuesday in August annually, and at Montrose on the second Tuesday in September annually; and such cases shall be heard in said courts as the law or the rules of said court may now or hereafter provide.

SEC. 2. That acts inconsistent with this act are hereby repealed, but such repeal shall not affect any term of court which may be now in progress. Any cases pending now in any court at any of said places may be tried where the same are now pending, or may be transferred to any other place herein specified as provided by law or the rules of said court or which may hereafter be provided therefor.

The committee amendments were read, as follows:

Strike out, in lines 7 and 8, the words "at Del Norte on the first Tuesday in August annually."

Strike out section 2 and insert the following:

"SEC. 2. The term of said courts heretofore provided to be held at Del Norte, Colo., on the first Tuesday in August annually is hereby discontinued, and all business now pending in said courts, including all records, files, books, or other property of the United States pertaining to said court, shall be transferred to Montrose, Colo., and all cases pending at Del Norte, Colo., shall be tried at Montrose, Colo., the same as if originally begun at the latter place, and all requirements for return of process or persons to said court at Del Norte shall hereafter be made or complied with at said term at Montrose, Colo."

Add section 3, as follows:

"SEC. 3. All acts and parts of acts inconsistent herewith are hereby repealed."

Amend the title so as to read: "A bill fixing terms of United States courts in Colorado, and for other purposes."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

INTERSTATE COMMERCE IN INTOXICATING LIQUORS.

Mr. JENKINS. I call up the bill (H. R. 15331) to amend an act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases, approved August 8, 1890.

The bill was read, as follows:

Be it enacted, etc., That chapter 728 of the Twenty-sixth Statutes at Large of the United States, approved August 8, 1890, be, and the same is hereby, amended to read as follows:

"That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall upon entering or upon arrival within the boundary of such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

The amendments reported by the committee were read, as follows:

Strike out all after the enacting clause and insert the following:

"That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall upon arrival within the boundary of such State or Territory before and after delivery be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

"SEC. 2. That all corporations and persons engaged in interstate commerce shall, as to any shipment or transportation of fermented, distilled, or other intoxicating liquors or liquids, be subject to all laws and police regulations with reference to such liquors or liquids or the shipment or the transportation thereof of the State in which the place of destination is situated, and shall not be exempt therefrom by reason of such liquors or liquids being introduced therein in original packages or otherwise."

Amend the title so as to read: "A bill to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases."

Mr. COWHERD. Mr. Speaker, we should like to hear some explanation of this bill.

Mr. JENKINS. I yield to the gentleman from Alabama [Mr. CLAYTON] who reported the bill.

Mr. CLAYTON. Mr. Speaker, I think the best explanation that can be made of the bill is the report of the committee, a unanimous report, which I ask may be read.

The Clerk proceeded to read the following [By Mr. CLAYTON] report:

The Committee on the Judiciary, to whom was referred the bill (H. R. 15331) to amend an act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases, approved August 8, 1890, having considered said bill, submit the following report:

Nearly all of the States have passed laws, as police regulations, differing to some extent in their provisions, for the prohibition, regulation, or control of intoxicating liquors within their respective boundaries.

In the case of Leisy *v.* Hardin (135 U. S., 100) the Supreme Court held that any citizen of a State had the right under the Constitution of the United States to import any intoxicating liquors into another State, and that in the absence of Congressional permission the State into which such liquors were imported had no power, in the exercise of its authority of police regulations, to enact laws to prohibit or regulate the sale of such liquors while they remained in the original packages.

The effect of this decision of the Supreme Court was to deny to the States all power to control or prohibit the sale of intoxicating liquors transported from one State into another while they remained in the original packages.

To remove the effect of this decision, and to authorize the several States in the exercise of their police powers, to prohibit or control the sale of intoxicating liquors, the act of August 8, 1890, was passed. That act provided "that all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent, and in the same manner, as though such liquids or liquors had been produced in such State and Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

In the case In re Rahrer (140 U. S., 545) the Supreme Court of the United States held that this act was constitutional and valid, and conferred upon the States the powers enumerated therein. But in the case of Rhodes *v.* Iowa (170 U. S., 415) a question arising under this act again came before the Supreme Court, and, in defining the scope and meaning of the act, the court held that under its provisions liquors transported from one State into another remained under the protection of the interstate-commerce laws until they were delivered to the consignee, and that the State law was inoperative to reach them until they were delivered by the common carrier to the person to whom they were consigned.

The effect of this decision was practically to nullify the act of 1890 so far as the transportation and delivery of intoxicating liquors within the State was concerned. Under the law, as thus construed, dealers in intoxicating liquors located in some of the States sent out their soliciting agents and established agencies in other States, who traveled over and canvassed the country and solicited sales and took orders for intoxicating liquors to be shipped in by the principal, consigned to the subscribers—sometimes to be sent to them direct, and in other cases to be sent to them in care of the soliciting agent.

By this method regular business of dealing in intoxicating liquors by the foreign dealer has been kept up in many of the States with impunity. Under this system the States are entirely powerless either to prohibit such sales or to exercise any control or regulation over them. They can not even impose a license or any restrictions whatever on the business carried on in this manner.

It is the purpose of this bill to correct this evil and to subject intoxicating liquors imported from one State into another to the jurisdiction of the laws of the State into which they are imported on the arrival of such liquors within the boundaries of such State.

Your committee therefore reports the bill back to the House with the following substitute amendment, and recommends that the bill as amended do pass:

"That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundary of such State or Territory, before and after delivery, be subject to the operation and

effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

"SEC. 2. That all corporations and persons engaged in interstate commerce shall, as to any shipment or transportation of fermented, distilled, or other intoxicating liquors or liquids, be subject to all laws and police regulations with reference to such liquors or liquids, or the shipment or the transportation thereof, of the State in which the place of destination is situated, and shall not be exempt therefrom by reason of such liquors or liquids being introduced therein in original packages or otherwise."

Amend the title so as to read: "A bill to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases."

Mr. MADDOX (interrupting the reading). Mr. Speaker, this reading of the report does not amount to anything unless we can hear it. I think that if the gentleman from Alabama will read the report or make a statement as to the effect of the bill, we shall all of us comprehend the matter better.

The SPEAKER. The Chair desires to state that a point of order of this same character was made yesterday; but within two minutes afterwards the gentleman who had made the point was creating more confusion than anybody else. The Chair therefore hopes that all gentlemen will help to maintain such order as will enable members to understand what is proceeding. The Clerk will continue the reading of the report.

The reading of the report was resumed and concluded.

Mr. CLAYTON. Mr. Speaker, for the benefit of gentlemen on this side of the House I desire to make a brief statement. In the first place, this bill comes from the Committee on the Judiciary by a unanimous vote; and secondly, the bill is made necessary by reason of decisions which have been rendered under the Wilson Act—the original-package decisions. Those decisions have had the effect to greatly qualify, if not to nullify, the intention of certain provisions of the Wilson Act. This bill proposes to amend that act, although it does not so state in its title. The committee were of the opinion that inasmuch as the Wilson law had been pronounced constitutional it would be better to let that whole legislation, which was had in the interest of good morals and in furtherance of the police powers of the States, stand, and to report an original proposition adding to the merits of the Wilson bill.

The decisions to which I have referred are stated with some degree of fullness in the report which I had the honor to present to the House in behalf of the committee. Under these decisions, to which I have made brief reference, it was held that as long as the intoxicating liquor imported into a State having prohibition laws was in the original package, and until it was delivered to the consignee, it was a subject of interstate commerce, and the police regulations and laws of the States could in no wise interfere. Under that ruling of the court the practice has grown up in the State of Iowa, and perhaps in other States where soliciting agents visit communities where the moral sentiment of the people is against the sale of intoxicating liquors—the practice has grown up for such soliciting agents to establish the business of taking orders from whomsoever may give them for liquor, the order for which would be sent to another State and then the liquor shipped, in some instances to the agent as consignee, and by him distributed to his customers; or, in some instances, the liquor would be sent directly to the customer. By this means the soliciting agent has been permitted under those decisions, and is permitted, as the law stands, to carry on the business of a liquor dealer in communities where the laws of a State and the moral sentiment of the people are to the contrary.

Mr. BARTHOLDT rose.

Mr. CLAYTON. In one moment I will yield to the gentleman. This act is made necessary to meet that exigency. Furthermore, Mr. Speaker, I will say to those who believe in the doctrine—once so largely believed by many, now, as we constantly hear, exploded, but which is still cherished by some of us, whatever is left of it, the doctrine of State rights—that there is nothing here to militate against our ideas on that subject. On the contrary, this is a proposition to surrender back to the States certain control which was given by the Federal Constitution under the commerce clause to Congress, the exercise of which power has, according to these decisions to which I have referred, nullified the police regulations of the States. In other words, this is simply a proposition to restore to the States in this matter full and ample power to enforce their police regulations against the sale of intoxicating liquors. That is the whole question.

I now yield to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, I would like to ask my friend whether the effect of this bill would not be this: Suppose the gentleman or myself were residents of a prohibition State, say the State of Maine, the State of Kansas, or the State of Iowa, or even some of the Southern prohibition States. Suppose the gentleman, for private use or his private table, desires a glass of malt liquor, or whatever it may be. Not being able to get it in his own State, he orders it somewhere, say in St. Louis or Chicago or any large city where it is sold. Will not the effect of the passage of this bill be that the State authorities under the State law can prohibit getting that package to your or my State?

Mr. CLAYTON. No; I do not think the bill goes to that extent. No, sir.

Mr. BARTHOLDT. In other words, in my judgment, the private citizen will be prevented from supplying his table with what he desires.

Mr. CLAYTON. No; I do not think it goes to that extent. On the contrary, I am sure it does not go to that extent. It is designed to break up the practice to which I have referred, and I have no idea that it can be construed or stretched to go beyond meeting the abuse to which I have referred, and which has necessitated the passage of this act.

Mr. BARTHOLDT. Mr. Speaker——

The SPEAKER. Does the gentleman yield to the gentleman from Missouri?

Mr. JENKINS. I yield to the gentleman five minutes.

Mr. CLAYTON. Before the gentleman proceeds, I would like to say that this is to prevent that manner of sale of goods, and not to prevent the gentleman from Missouri, or any other man who wants to take a drink, from taking it or from using it on his table, to use the gentleman's language. I yield back the balance of my time to the gentleman from Wisconsin.

The SPEAKER. The gentleman from Missouri is recognized for five minutes.

Mr. BARTHOLDT. Mr. Speaker, this is the first information I have about this bill. I did not know it had been pending; I did not know it was before the committee; but I am sure that if the provisions of this bill were generally understood, the House would not approve of it. It means, in effect, that the prohibition States which have the right to enforce their police powers within the State, will have the right to enforce them against any citizen in the country who attempts to sell to the citizens of that State any liquor whatsoever. It practically legalizes prohibition and nullifies the decision of the Supreme Court, which is to the effect that as long as these packages pertain to interstate commerce they can not be interfered with by the police powers of the State.

Mr. CLAYTON. Mr. Speaker, may I interrupt the gentleman?

The SPEAKER. Does the gentleman yield?

Mr. BARTHOLDT. Yes.

Mr. CLAYTON. That is exactly this bill—intending to permit the enforcement of the prohibition laws of the State in the community so that they may not be violated as they have been in the manner to which I have referred.

Mr. BARTHOLDT. Exactly, and that is what I am opposed to. If a majority in any State of the Union sees fit to adopt prohibition, if 51 out of 100 vote for prohibition, to deprive the 49 of their personal liberty and their individual rights, then I say that under the laws of the country those 49 ought to have the privilege of exercising their personal liberty and of purchasing what they require anywhere else.

Under this bill, Mr. Speaker, they will be prevented from doing so. It means absolute prohibition for every citizen living in a prohibition State, whether he believes in that principle or not. Of course it may be argued, and the gentleman from Alabama [Mr. CLAYTON] makes the point, that the police power of the State may not be invoked, but what guaranty has Congress to that effect? If we leave this entirely to the States, then we yield and sacrifice a constitutional right which ought to be exercised here to protect interstate commerce.

Mr. KLEBERG. Mr. Speaker, I would ask the gentleman if this is not an attempt, by Federal law, to aid prohibition throughout the United States and enforce prohibition in every part of it?

Mr. BARTHOLDT. That is my understanding of it. I readily admit that I may be mistaken. This is the first time that I have heard of the bill. I have not read even the report, but the provisions of the bill are plain enough to satisfy me that it means a general extension of the principles of prohibition all over this Union, and I am not prepared to vote on a matter of such importance upon so short a notice. I think the House ought to have time to consider this subject more fully rather than to have it brought in here under a rule when 10 or 12 or 15 bills are considered within thirty or forty minutes. I want time to discuss this matter and to study it, and I trust my friend from Wisconsin will not press his bill at this time.

Mr. JENKINS. I yield five minutes to the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. Mr. Speaker, I am afraid the gentleman from Missouri [Mr. BARTHOLDT] has not been as alert as he usually is when questions of this kind are ripe for consideration. This bill was introduced the 30th day of last June. It has been before this House now for more than six months. There have been five months of leisure for the gentleman, and yet he has given it no consideration at all. In fact, Mr. Speaker, it has been

before his attention for a much longer period. It was originally enacted on the 8th day of August, 1890. This bill is substantially the act of 1890, with the addition that in the first section we have inserted the words:

Before and after delivery.

There is no difference between the first section of this bill and the present statute except the introduction of those words.

The original bill made intoxicating liquors introduced into a State subject to the law of the State upon "arrival" within the boundaries of the State. Now, the Supreme Court elected to construe that to mean after the delivery of the liquors within the boundaries of the State. After the delivery the State lost sight of the liquors and practically lost jurisdiction over them. The State authorities could do nothing in the way of the enforcement of the law, and therefore they have sought this legislation, giving the State jurisdiction either before or after delivery after arrival within the limits of the State. And why should not this be so? Why should not the State of Missouri have jurisdiction over the importation of liquors within that State and designed for use in that State?

Mr. KLEBERG. Will the gentleman yield for a question?

Mr. HEPBURN. Certainly.

Mr. KLEBERG. I ask it for information. Will not this bill give the State authorities the power to destroy absolutely any liquor that comes within the State of Iowa?

Mr. HEPBURN. No. It will give the State of Iowa the power to destroy liquors when brought within the State if they are there in opposition to the provisions of the law of that State.

Mr. KLEBERG. That is what I asked.

Mr. HEPBURN. It prevents the importer from avoiding the statutes of Iowa because of the interstate-commerce clause of the Constitution and the legislation thereunder.

Mr. KLEBERG. Will not that prevent the introduction of liquor by any private individual?

Mr. HEPBURN. I think not, unless it is brought there for some illegal purpose. It is not illegal for the gentleman to carry liquors into the State of Iowa for his own consumption.

Mr. KLEBERG. That is what I question.

Mr. HEPBURN. No, it is not. There is no statute of that kind. It is the illegal sale of the liquor that our statute has been enacted to prohibit.

Now, I think, Mr. Speaker, that there is but very little in this to excite my friend from Missouri [Mr. BARTHOLDT]. I know he is easily excited upon subjects of this kind; but we simply want to exercise our power over liquors imported into the States, the power that we would have the right to exercise but for the original-package clause of the Federal law; that is all.

Mr. BARTHOLDT. I understand all that——

The SPEAKER. The gentleman from Wisconsin [Mr. JENKINS] has the floor.

Mr. JENKINS. I yield five minutes to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. I desire to say just one word more, and that is that I for one am willing to go to the full extent of our constitutional authority to aid the States in the enforcement of all their police regulations, their laws and regulations that affect public health and morals.

When this question, or questions similar to this, came before the House in a former Congress, I recollect that the distinguished gentleman from Kentucky [Mr. WHEELER] offered a proposition—I think it was brought forward on the floor of the House, and I know that he offered it to the Congress—that wherever the States had laws prohibiting the sale of intoxicating liquors, a license to sell intoxicating liquors should not be granted by the United States. Now, in the State of Iowa, under the law as it exists, these soliciting agents can take out a Federal license to sell liquors and defy the laws of the State and the public sentiment of any community.

Now, gentlemen, this is simply a proposition to give to the States the right of local self-government, the right of the majority in any community to make their own laws and to enforce them. The fact that perchance the enforcement of the law that the people of a community have deemed best to their health and happiness should affect some little beer industry or big beer industry in St. Louis or elsewhere is no reason why we should vote down this proposition.

Inasmuch as it has come from the committee with a unanimous report and is in aid of home rule, is in favor of States' rights, is in behalf of the moral sentiment of the people of Iowa and of other States, I maintain that every reason, legal, political, and moral, constrains us to vote for this bill. [Loud applause.]

Mr. JENKINS. I yield to the gentleman from Missouri for the purpose of asking a question.

Mr. BARTHOLDT. I want merely two or three minutes.

Mr. JENKINS. I yield three minutes to the gentleman from Missouri.

Mr. BARTHOLDT. Mr. Speaker, in immediate reply to my friend from Alabama, I would like to ask every reasonable man on this floor how much business a soliciting agent such as he refers to can do in a prohibition community if the sentiment on that question is unanimous?

Mr. CLAYTON. I would ask the gentleman how much business a "blind tiger" can do in a community? And this is worse than a "blind tiger."

Mr. BARTHOLDT. Why is it possible for liquors to go there if there is a unanimous sentiment against it? Is it possible that some people may stand on the street corners and preach prohibition and then give orders to the soliciting agent to supply them with liquor?

Mr. CLAYTON. There are laws against murder and other crimes, but they are committed.

Mr. BARTHOLDT. I say, is it possible that such hypocrisy is possible in any community? I now believe, according to the argument made by friend, that it must be possible. There must be such hypocrisy, or else these soliciting agents could not exist and a "blind tiger" could not exist. But I was going to ask my friend from Iowa a question, and it is this: Is there in this bill a provision which will permit a citizen of Iowa or a citizen of any other prohibition State to order, for his own table and his own private use, such drinkables as he or his family may require as civilized individuals?

Mr. HEPBURN. There is certainly no provision that he may not do that, and no law of the State of Iowa that would prohibit him from doing that.

Mr. BARTHOLDT. If my friend will pardon me, if this bill passes and the police regulations of the State of Iowa and the laws of the State of Iowa are strictly enforced, then, I say, they can not get goods of that kind. In other words, if these original packages sent from other States are stopped at the boundary of the State, how will it be possible for my friend or any other person there to secure any of that kind of stuff?

Mr. HEPBURN. I do not think any question of that kind could possibly arise. There will be no constabulary on the border line of the State of Iowa. The only change between this bill, the gentleman will understand, and the present law, is the insertion of these words, "before or after delivery." That is all. The Supreme Court have held that the law does not apply until "after delivery," under the present statute. Now, we have tried to remedy that. Whenever liquor is sent, for example, to my town—sometimes 30, 40, or 50 packages come from the gentleman's town—his constituents persist in selling liquor there. We want to prevent that. We have enacted a law therein that we thought was sufficient. The Supreme Court have taken the substance out of it by this decision that I have called to his attention. I want to say further, that when the gentleman talked a little while ago about hypocrisy, I do not think there is any hyprocrisy in the matter at all. We have some gentlemen who like and will have liquor, and who become harmful to the State——

Mr. GROSVENOR. Is that in Iowa?

Mr. HEPBURN. That is in Iowa, and in Ohio, and practically every other State.

Mr. GROSVENOR. I admit it.

Mr. HEPBURN. So I say there is no hypocrisy about that, and we are trying to control this class of our people that will get liquor through the connivance of the gentleman's constituents and then harm the body politic, commit murders, and other crimes, and almost the only ones we have in the State, under the influence of these sales. We are trying to prohibit it, and want the gentleman to help us to do it.

Mr. JENKINS. I yield five minutes to the gentleman from Iowa [Mr. THOMAS].

Mr. THOMAS of Iowa. Mr. Speaker, it seems to me that the gentleman from Missouri misconceives the purpose of this bill. The law as it now stands authorizes the States to prohibit, control, or regulate the sale of intoxicating liquors transported from one State into another while such liquors remain in the original packages. That far the Wilson bill goes as it stands on the statute books to-day. But, as has already been stated, under the decisions of the Supreme Court, the effect of that act has been limited somewhat beyond expectation. Under these decisions intoxicating liquors retain the character of articles of interstate commerce until they go into the hands of the consignee. The only purpose of this bill is to extend that law and subject intoxicating liquors imported into a State to the jurisdiction of State law as soon as it crosses the State line. It is not a measure in favor of or against prohibition; it does not propose to deal with the question, but to leave the whole question of controlling the liquor traffic with the several States.

It is a measure intended to give to the States the right and power to control the sale of intoxicating liquors within their own borders. It is the purpose of this bill to place the citizens of any State in like position with the citizens of every other State with

respect to the sale of intoxicating liquors—to place the citizens of Iowa in like position with citizens of Illinois and Missouri, when the citizens of these States send their liquors into Iowa for sale or consumption there. Under this bill, if it shall become a law, the citizens of any State importing intoxicating liquors into another State will have the same rights and privileges respecting such liquors in the State in which they are received as the citizens of that State will have respecting liquors produced therein. The citizens of Illinois or Missouri who intend or attempt to go into the State of Iowa and there sell their products will have the same rights and privileges as the citizens of Iowa have respecting any liquors sold or produced in that State. It places the citizens of all the States on precisely the same ground. I submit, Mr. Speaker, that there is no reason why, through the protection of interstate commerce, the States should be divested of the power to control the traffic in intoxicating liquors within their own borders as a police regulation for the protection and welfare of their own people. By the adoption of this measure we do not say that you shall not ship your liquors into any State, nor that you shall not sell them therein; but we only say by this bill that the State shall determine that question. If any State desires to enforce prohibition, then we say let that State enforce its prohibition against the citizens of other States and those who may attempt to import their liquors into that State, as well as against the citizen of its own State and those who may attempt to sell liquors owned or produced in such State.

Mr. WM. ALDEN SMITH. In such a case there could be no delivery. For instance, in the State of Iowa, if you have prohibition there, there could be no delivery.

Mr. THOMAS of Iowa. That is the purpose of the bill.

Mr. WM. ALDEN SMITH. How would the law apply?

Mr. THOMAS of Iowa. The law would simply bring the liquors—when shipped over the line into Iowa, from Michigan, for instance—bring them under the control of the laws of the State as soon as they crossed the line.

Mr. WM. ALDEN SMITH. Then it is a waiver of the general power of interstate commerce?

Mr. THOMAS of Iowa. Yes, so far as to yield the authority to the State to control or prohibit the traffic in intoxicating liquors.

Mr. CRUMPACKER. Will it affect liquors transported across the State from one State into another?

Mr. THOMAS of Iowa. No, sir.

Mr. CRUMPACKER. Is there anything in the bill to preserve the right of such transportation?

Mr. SMITH of Iowa. It is specially preserved.

Mr. CRUMPACKER. Will it affect the use of liquor on dining cars on trains running through the State?

Mr. THOMAS of Iowa. I apprehend that the same rule will apply in the sale of intoxicating liquor on dining cars that will apply anywhere else—that would apply to an eating house.

Mr. WM. ALDEN SMITH. The gentleman from Indiana does not seem to know that in some States they are prohibited now from selling liquor on dining cars.

Mr. THOMAS of Iowa. This, Mr. Speaker, as I have outlined, is the purpose of this bill.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. JENKINS. Mr. Speaker, I now yield five minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, in the case of Leisey against Hardin the Supreme Court of the United States held that under the interstate-commerce clause of the Federal Constitution one had a right to ship liquor into a State in original packages and there sell it in unbroken packages. Immediately after the decision was handed down Congress passed the Wilson bill, which provided that upon the arrival of liquors in a State they should be subject to the police regulations thereof. The United States Supreme Court, in the Rhodes case, held that "arrival" meant delivery to the consignee. Under this holding a practice has grown up in Iowa by which a nonresident ships a large number of jugs into the State addressed to himself, and then his soliciting agent goes about selling these liquors at retail in the town, and simply transfers the bills of lading, thus carrying on the retail liquor business in that dry town in violation of the will of the majority of the people, and using the express office as a retail liquor place.

So flagrant has this become in Iowa that in one of the towns in Colonel HEPBURN'S own county, when I had the honor of presiding upon the bench in that district, as high as 100 jugs at a time were found in a single express office, addressed by the consignor to himself as consignee, without any intention that they should ever be delivered, except to the several assignees of the bills of lading that might be found after the arrival of the goods in the State.

Under the decision in the Rhodes case these liquors were not subject to seizure and could be kept there in large quantities in the office of the express company, and retailed from there to whom ever would pay the C. O. D. charges, the value of the liquor and the cost of transportation. This system has been so flagrantly conducted that the State supreme court, during the last session, ordered a writ of injunction to issue against one of the express companies, enjoining it from maintaining one of its offices as a place wherein to carry on the traffic in intoxicating liquors.

So flagrant has it become that the Iowa supreme court recently ordered the destruction of a large number of boxes containing liquor found in the office of the American Express Company, upon the theory that where they were sent C. O. D. in this way they were not sold until delivered, and therefore not within the protection of the interstate-commerce clause of the Constitution.

So flagrant has this been in Iowa that at the last session of the United States district court for the southern district the Adams Express Company was formally indicted by the grand jury for being engaged in the retail liquor business without having paid the special tax therefor, as required by the laws of the United States.

Now, if we do not want this traffic carried on we ought to have the right to prevent a nonresident Iowan living in Brother BARTHOLDT'S district sending liquor to himself in a dry town, insisting that under the decision in the Rhodes case they are entitled to immunity from seizure until they are delivered to the consignee when he does not intend to receive them, and retailing these liquors to whoever will come up and advance the value of the liquor and the cost of transportation.

Mr. BARTHOLDT. How can he find purchasers if they do not want it?

Mr. SMITH of Iowa. There are people even in Iowa who, like my friend from Missouri, demand intoxicating liquors. But we say that the majority of the people in a community have the right to say whether this traffic shall be conducted there or not; and this bill proposes simply to give back to us that power of local self-government which we had enjoyed until the decision in the Rhodes case that the word "arrival" under the Wilson law meant delivery to the consignee.

Mr. BARTHOLDT. In other words, my friend would not allow a private citizen to order——

[Here the hammer fell.]

The SPEAKER. Does the gentleman from Wisconsin [Mr. JENKINS] yield further?

Mr. JENKINS. I yield five minutes to the gentleman from Texas [Mr. KLEBERG].

Mr. KLEBERG. Mr. Speaker, I regret that I can not agree with my friend from Alabama [Mr. CLAYTON] in supporting this bill. I think that it is "on all fours" with the oleomargarine bill, which he and other Democrats, including myself, fought on this floor. I think that this bill is an unwarranted interference with interstate commerce. If it can be said by Congress that liquor shall not be imported from one State to another, it can equally be said by Congress that any other article of commerce can be prevented from going from one State into another. I repeat, this is the same fight that we had on the oleomargarine bill; and the reason against this bill is one of the principal reasons that the Democrats had for opposing that bill.

Mr. Speaker, after all, this whole question is nothing but a prohibition question, transferred from the State of Iowa to the Congress of the United States. This bill is simply an attempt by Federal legislation to aid the principle of prohibition; and my friends on the other side and on this side might just as well so recognize it. Now, I am an antiprohibitionist. I believe in personal liberty, and for that reason I shall cast my vote against this bill.

Mr. JENKINS. Mr. Speaker——

Mr. BARTLETT. Will the gentleman yield to me for a few minutes?

Mr. JENKINS. How many minutes does the gentleman desire?

Mr. BARTLETT. I will say to the gentleman that I am in favor of the bill.

Mr. JENKINS. If the gentleman wants some time I will give it to him.

Mr. BARTLETT. Only a few minutes.

Mr. JENKINS. I yield to the gentleman for five minutes.

The SPEAKER. The gentleman from Alabama is entitled to the floor for five minutes.

Mr. BARTLETT. I suppose the Chair means "the gentleman from Georgia" [Mr. BARTLETT].

The SPEAKER. Yes; the Chair begs pardon for the mistake.

Mr. BARTLETT. Georgia had the honor of giving the State of Alabama to the Union; and hence it is no offense to me to be designated as coming from Alabama. [Laughter.]

Mr. CLAYTON. And Alabama loves her mother State.

Mr. BARTLETT. Mr. Speaker, I think that this bill ought to pass. I am as much opposed to prohibition as the gentleman from Texas [Mr. KLEBERG] who has just taken his seat. Were

it a question in a locality whether prohibition should be established, I should vote against it, because I believe that in a community such as I live in—in the large cities of this country and elsewhere—an attempt to enforce prohibition has always ended in a great farce. But this is not a prohibition bill. It is a bill providing simply that the States that have enacted laws upon the subject of the sale of liquor—that have enacted laws, it may be, for the purpose of preventing the sale of liquor, or for the purpose of regulating the sale of liquor, or for the purpose of licensing the sale of liquor—have a right to say under the Constitution whether those laws shall be defeated and destroyed by means of the use of the interstate-commerce clause of the Constitution, which the Supreme Court has decided in the Rhodes case may be used for that purpose.

Now, it is a well-known fact that in the State of Maine, which has had a prohibition law ingrafted in her constitution for fifty years, and all over the country, in every State where prohibition laws exist, those who desire to violate those laws simply procure a United States license from the internal-revenue collector, and set up their business and defy the laws of the States. This bill, as I understand, simply transfers to the State legislatures and the State local authorities the right which I believe they have always had since the organization of this Government—the right which the States reserved to themselves when they entered into the compact of States—the right to govern their own local affairs and the right to pass and have enforced police laws as the people of those States desire that they should be enforced. This is all I desire to say about the bill.

Mr. JENKINS. I call for the previous question on the bill to its passage.

The previous question was ordered.

The question being taken on agreeing to the amendment reported by the committee, it was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

The SPEAKER. Without objection, the amendment to the title as proposed by the committee will be agreed to.

There was no objection.

On motion of Mr. JENKINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

CLERKS OF CIRCUIT AND DISTRICT COURTS OF THE UNITED STATES.

Mr. JENKINS. I desire to call up the bill (H. R. 14047) and I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. The Clerk will report the bill by its title.

The Clerk read as follows:

A bill (H. R. 14047) for the relief of the clerks of circuit and district courts of the United States.

Mr. UNDERWOOD. I ask that the whole bill be reported, pending the request of the gentleman from Wisconsin [Mr. JENKINS] for unanimous consent.

The SPEAKER. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, etc., That the accounting officers of the Treasury are hereby authorized and directed to reopen and restate the emolument accounts of the clerks of the circuit and district courts of the United States for the years 1891 to 1900, inclusive, where a balance against said clerks has been created contrary to the decision of the Comptroller of the Treasury dated July 29, 1901, and the decisions of the Supreme Court of the United States cited therein, and to settle the same in accordance with said decisions; and upon satisfactory proof, which shall be made under oath, of any balance due any of said clerks, to certify and pay such balance to them out of any money in the Treasury not otherwise appropriated.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? [After a pause.] The Chair hears none. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

ADDITIONAL CIRCUIT JUDGE IN EIGHTH JUDICIAL CIRCUIT.

Mr. JENKINS. Mr. Speaker, I now call up the bill (S. 5316) providing for an additional associate judge in the eighth judicial circuit, which I will send to the desk and ask to have read. Pending that I ask unanimous consent that this bill may be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the bill which the Clerk will report may be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none and the Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That there shall be in the eighth circuit an additional circuit judge, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall possess the qualifications, and shall have the powers and jurisdiction and receive the compensation prescribed by law in respect to other circuit judges.

The SPEAKER. The question now is on the third reading of the Senate bill.

The bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

ADDITIONAL CIRCUIT JUDGE IN DISTRICT OF MINNESOTA.

Mr. JENKINS. Mr. Speaker, I now call up the bill (S. 6461) providing for an additional circuit judge in the district of Minnesota, which I will send to the desk and ask to have read. Pending that I ask unanimous consent that this bill may be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the bill which the Clerk will report may be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That there shall be in the district of Minnesota an additional district judge, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall possess the same qualifications and have the same power and jurisdiction now prescribed by law in respect to the present district judge therein.

SEC. 2. That the senior circuit judge of the eighth circuit, or the resident circuit judge within the district, shall make all necessary orders for the division of business and the assignment of cases for trial in said district.

SEC. 3. That this act shall take effect and be in force from and after the 1st day of July, 1903.

The SPEAKER. The question now is on the third reading of the Senate bill.

The bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

ADDITIONAL JUDGE OF DISTRICT COURT FOR SOUTHERN DISTRICT OF NEW YORK.

Mr. JENKINS. Mr. Speaker, I now call up the bill (H. R. 16724) providing for an additional judge of the district court of the United States for the southern district of New York, which I will send to the desk and ask to have read. Pending that, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that this bill, which the Clerk will report, may be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the President of the United States, by and with the advice and consent of the Senate, shall appoint an additional judge of the district court of the United States for the southern district of New York, who shall reside in said district, and who shall possess the same powers, perform the same duties, and receive the same salary as the present district judge of said district.

The committee amendment was read, as follows:

Strike out all of section 2 and make section 3 section 2.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. Does the gentleman from Wisconsin yield to the gentleman from New York?

Mr. JENKINS. I would like to know the purpose for which the gentleman rises.

Mr. GOLDFOGLE. For the purpose of moving to reinsert section 2.

Mr. JENKINS. That question, I would say to the gentleman from New York, will come up on considering the committee amendment. When the committee amendment is submitted to the House the question to which the gentleman refers will be up for consideration.

Mr. UNDERWOOD. Mr. Speaker, I would like to say that, consent being given to consider this bill in the House as in Committee of the Whole, unless the gentleman from Wisconsin yield to the gentleman from New York the gentleman from New York will be precluded from making his motion.

Mr. JENKINS. The gentleman from Alabama [Mr. UNDERWOOD] perhaps does not understand that the gentleman from New York [Mr. GOLDFOGLE] is not in sympathy with the committee amendment.

Mr. UNDERWOOD. If it is to be considered in the House as in Committee of the Whole, I take it the gentleman from Wisconsin intends to yield to the gentleman from New York.

Mr. JENKINS. The gentleman from New York will have every opportunity.

The SPEAKER. Does the gentleman yield?

Mr. JENKINS. I yield five minutes to the gentleman from New York.

Mr. GOLDFOGLE. Mr. Speaker, I did not hear what the gentleman from Alabama had to say in reference to the bill.

Mr. UNDERWOOD. I only said that if the bill is to be considered in the House as in Committee of the Whole the gentleman from New York might be cut out of his opportunity to make his motion unless the gentleman from Wisconsin yielded; and the gentleman from Wisconsin has yielded to the gentleman from New York.

Mr. GOLDFOGLE. Mr. Speaker, the additional judgeship for which the bill before the House provides is greatly needed in the southern district of New York. The judicial labors of the district court there have become so great as to overtax the fair working capacity of any single judge, and a due regard for the proper dispatch of business and for that careful attention and thoughtful deliberation we all expect shall be exercised in the performance of the judicial functions, requires that in the southern district of my State there should be at least one more judges.

The bar there is unanimous in its opinion that the business of the court absolutely requires an additional judge, and though the district judge who now presides there has striven to cope with the enormous and constantly growing volume of work in this exceedingly busy judicial district, it has become apparent that, however diligent and energetic he has been, he can not continue to perform the arduous labors of that tribunal so as to keep satisfactorily abreast with the litigation without an increase in the judicial force of the court. I take it, therefore, that no opposition will be offered to the bill. But the committee in reporting the measure has recommended that section 2 be stricken out. I trust that section will be retained. It in substance provides that—

The arrangement of the business of the court shall be directed by the judge senior in office, except in case of his disability, to be determined by the circuit court of appeals for the second circuit, when the junior judge shall have the power.

There ought to be a recognized head of the court, and to avoid the possibility of disagreement there ought to be some such provision as is contained in section 2. It will operate as a safeguard against friction and tend to the better regulation of the transaction of the court's business. It seems to me, as it seems to the bar of New York, that the arrangement for the business of the court with but two judges may be safely, and, in fact, ought properly to be, left to the judge who is senior in office.

We can readily understand that where there are but two judges there ought to be some one who, in case necessity therefor arises, could direct the arrangement of business. It is to meet a possible necessity, to insure harmonious action, to avoid misunderstandings, and guard against disagreement that section 2 ought to be retained, although I do wish to say that there is very little probability that so long as our present district judge, Judge Adams, continues in office there will be any cause for any incoming judge to disagree with him.

A very learned and distinguished jurist, an exceedingly able man, a man of remarkable business capacity, and an indefatigable worker, who has discharged his duties to the satisfaction of the entire bar of New York, Judge Adams will certainly do nothing at any time to impede or retard the business of the court, but rather will help, as he has always done, to expedite the work. Judge Adams is a genial gentleman, who, I am sure, will get along exceedingly well with anyone who may be appointed under this bill, but in legislating we ought to guard against the possibilities that can be foreseen and avoid what so easily and without any impropriety may be guarded against. The reasons for the insertion of the section which the committee proposes shall be stricken out are, I hope, obvious, and, without detaining the House longer, I suggest to the committee reporting the bill the advisability of reinserting section 2 as it appears in the original bill.

Mr. JENKINS. Mr. Speaker, I simply desire to say to the gentleman from New York and to the House that this amendment was very carefully considered by the Judiciary Committee, and they were unanimously opposed to the views of the gentleman from New York. There is no judge elsewhere in the United States who is of equal rank, who is subject to the orders of his brethren. Now, the gentleman from New York insists that on account of the fact that there are two or more district judges in this district, the senior judge should direct the others as to what they shall do and when they shall do it. The Judiciary Committee were opposed to it. Each judge stands on an equal footing. They are all of one rank and it would be unfair to say by law that the senior judge should compel the others to do work in accordance with his views. Therefore the committee recommended that that provision of the bill be stricken out.

Mr. GOLDFOGLE. Suppose there should be a disagreement between the two judges, who shall settle the question as to the arrangement of the business of the court?

Mr. JENKINS. There can not be. The same rule must prevail that prevails in other places where there are more district judges than one.

Mr. GOLDFOGLE. The gentleman from Wisconsin will readily understand that if there were three judges, the question would be easy of solution; but where there are two judges, ought not the senior judge, especially when he has so well conducted the business of the court during the time that he has been in office, be permitted, in case of disagreement between the two judges, to arrange the business of the court?

Mr. JENKINS. I ask for a vote on the committee amendment.

Mr. GOLDFOGLE. Is that the amendment I refer to?

The SPEAKER. That is the only amendment pending.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

CERTAIN LANDS IN FORT SMITH, ARK.

Mr. JENKINS. Mr. Speaker, I now desire to call up the bill (H. R. 15595) ceding jurisdiction to the State of Arkansas over certain lands in the city of Fort Smith, in said State.

The bill was read, as follows:

Be it enacted, etc., That jurisdiction is hereby ceded to the State of Arkansas over so much of the ground as was donated to the city of Fort Smith, in the State of Arkansas, for streets and alleys, and also over so much as was sold by the United States under the provisions of the act of Congress approved February 26, 1897 (vol. 29, United States Statutes at Large, pp. 596 and 597).

The following amendments, recommended by the Committee on the Judiciary, were read:

Strike out all after the enacting clause and insert:

"That jurisdiction is hereby confirmed and ceded to the State of Arkansas over all those portions of the Fort Smith Reservation which have heretofore been aliened by the United States either to the city of Fort Smith in trust or otherwise, or to other parties; and complete Federal jurisdiction is hereby asserted and retained over all portions of the said reservation that have not been specially aliened."

Amend the title so as to read: "A bill confirming and ceding jurisdiction to the State of Arkansas over certain lands formerly in the Fort Smith Reservation in said State, and asserting and retaining Federal jurisdiction over certain other lands in said reservation."

The SPEAKER. The Chair is advised that this bill is upon the Union Calendar.

Mr. JENKINS. I ask unanimous consent that it be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman asks unanimous consent that this bill be considered in the House as in Committee of the Whole, being upon the Union Calendar. Without objection, this course will be pursued.

There was no objection.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time, and passed.

By unanimous consent, on motion of Mr. JENKINS, the amendment to the title was agreed to.

On motion of Mr. JENKINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

TERMS OF UNITED STATES COURTS AT SUPERIOR, WIS.

Mr. JENKINS. Mr. Speaker, I desire to call up House bill 16599.

The SPEAKER. The Chair is informed that this bill is also on the Union Calendar. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 16599) amending chapter 591 of the United States Statutes at Large, Fifty-sixth Congress, approved May 26, 1900, entitled "An act to provide for the holding of a term of the circuit and district courts of the United States at Superior, Wis."

Mr. JENKINS. Mr. Speaker, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Without objection, that course will be pursued.

There was no objection.

The bill was read, as follows:

Be it enacted, etc., That chapter 591 of the United States Statutes at Large, approved May 26, 1900, be, and the same is hereby, amended so as to read as follows:

"SECTION 1. That two terms of the circuit and district courts of the United States for the western district of Wisconsin shall be held annually at the city of Superior, one term beginning on the first Tuesday in May and another term beginning on the third Tuesday in October.

"SEC. 2. The circuit and district judges of the western district of Wisconsin shall appoint a clerk, who shall be clerk both of the circuit and district courts for the western district of Wisconsin, who shall reside and keep his office at Superior, Wis., and who shall receive such fees and compensation for services performed by him as are now fixed for clerks and limited by law; and one or more deputies of the clerk of the circuit and district courts may be appointed by the judges of said courts on the application of the clerk, and may be removed at the pleasure of the judges authorized to make the appointments. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk in his name, until a clerk is appointed and qualified.

"SEC. 3. All summonses, writs, warrants, and processes issued by the said courts or the clerks thereof at Superior shall be made returnable at Superior, and the clerk shall keep in his office the original records of all actions, prosecutions, and special proceedings commenced and pending therein.

"SEC. 4. All causes triable in either of said courts when the summonses, writs, warrants, and processes shall be issued from the said courts at Superior shall be tried at Superior, unless by consent of parties or on other legal grounds the causes may be removed for trial to some other county in said western district of Wisconsin where said courts are held.

"SEC. 5. A grand and petit jury shall be summoned for each term of said courts, which petit jury shall be competent to sit and act as such jury in either or both of said circuit and district courts at said terms: *Provided*, That the judge of the district court may, in his discretion, dispense with the summoning or impaneling of a grand jury at either or both of said terms.

"SEC. 6. The marshal of said western district of Wisconsin shall appoint a deputy marshal who shall reside and keep his office at Superior, Wis., whose compensation shall be fixed as provided by section 10, chapter 252, of the General Statutes of the United States, approved May 28, 1896.

"SEC. 7. This act shall take effect and be in force from and after its passage and publication."

The bill was ordered to be engrossed for a third reading; and, being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

DIVESTING THE UNITED STATES OF ITS TITLE TO CERTAIN PROPERTY IN ALABAMA.

Mr. JENKINS. Mr. Speaker, I now desire to call up the Senate bill 6333, and ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. The Clerk will report the bill by its title, and the request will be submitted.

The Clerk read as follows:

A bill (S. 6333) to divest out of the United States all its right, title, and interest of, in, and to certain real estate situated at and near the city of Montgomery, State of Alabama, and to vest the same in The Southern Cotton Oil Company, Bessie R. Maultsby, James S. Pinckard, trustee, M. V. B. Chase, and Edwin Ferris.

The SPEAKER. This bill is upon the Private Calendar, and requires consent of the House to consider it.

Mr. CLAYTON. Mr. Speaker, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was read, as follows:

A bill (S. 6333) to divest out of the United States all its right, title, and interest of, in, and to certain real estate situated at and near the city of Montgomery, State of Alabama, and to vest the same in The Southern Cotton Oil Company, Bessie R. Maultsby, James S. Pinckard, trustee, M. V. B. Chase, and Edwin Ferris.

Whereas numerous suits have been brought in the circuit court of the United States for the middle district of Alabama, and elsewhere, by the United States against Eugene Beebe and Ferrie Henshaw, sureties upon the bond of Francis Widmer, a defaulting collector of internal revenue for the second district of Alabama, and against Eugene Beebe, also a surety on the bonds of Charles W. Dustan, a defaulting postmaster at Demopolis, Ala., and Charles H. Davis, a defaulting postmaster at Union Springs, Ala.; and

Whereas in the course of said suits judgments were recovered by the United States against said Beebe and Henshaw, and certain real estate hereinafter mentioned and alleged to belong to them was seized and taken in execution in satisfaction of said judgments, and sold and purchased by the United States at marshal's sale, and subsequently conveyed by marshal's deed to the United States, and

Whereas various suits of law and in equity and in ejectment were subsequently brought against said Beebe and Henshaw, their heirs, executors, administrators, or grantees, to enforce the title of the United States to the real estate so purchased, and to secure possession thereof, and an accounting for the rentals thereof, many of which suits are still pending; and

Whereas said Beebe and Henshaw are now deceased, and a proposition has been made by the parties in interest hereinafter mentioned to pay to the United States the sum of $25,000 in compromise and settlement of said claims, and to end the litigation resulting therefrom, upon condition that the United States would release, relinquish, and convey unto proponents all the right, title, and interest in said real estate owned, acquired, or claimed by the United States, and the sum of $25,000 has been deposited with the Secretary of the Treasury, as required by law, to abide action upon said proposition; and

Whereas the Secretary of the Treasury has approved said proposition of compromise and settlement for the amount tendered as aforesaid, but is without authority to carry the same into effect by a conveyance to said parties of the interest of the United States in said real estate: Therefore,

Be it enacted, etc., That all right, title, and interest of the United States of, in, and to all that certain tract of land, with the buildings and improvements thereon erected, commencing at a point 3,960 feet, more or less, north of the east and west line between sections 1 and 12, township 16 north, range 17 east, and 605.3 feet, more or less, west of a point in the center of the Western Railway track, where it is crossed by the public road, which is a continuation of Court street, Montgomery, on the road or street leading from the Western Railway track into the "fair" or "exposition" grounds, on the land of the Montgomery Land and Improvement Company, and running along and on said road or street west 1,980 feet; thence turning an angle of 79° 14′ to the right, or north, 361 feet; thence 17° 4′ to the right 963 feet; thence 5° 23′ to the left 1,340 feet to a point near the east and west line between the north and south halves of the southeast quarter of section 36, township 17 north, range 17 east; thence at a right angle east 1,330 feet, more or less; thence south 1,318 feet; thence east along the line between said section 36 and said section 1, 950 feet; thence in a southerly direction 1,330 feet, more or less, to the place of beginning, containing about 100 acres, more or less, being the same premises heretofore known as "The Montgomery Race Track," and which was inclosed by a fence, said lands lying and being situated in the northeast quarter of section 1, township 16 north, range 17 east, and in the southeast quarter of section 36, township 17 north, range 17 east, all near the city of Montgomery, in the county of Montgomery and State of Alabama, excepting the lot heretofore sold by the Montgomery Land and Improvement Company to I. L. Watkins, trustee, and now claimed by James S. Pinckard, trustee, set forth and described in the next succeeding section of this bill, be, and the same is hereby, divested out of the United States and vested in The Southern Cotton Oil Company.

SEC. 2. That all the right, title, and interest of the United States of, in, and to all that certain tract of land, with the buildings and improvements thereon erected, lying, being, and situate in the county of Montgomery, State of Alabama, described as follows: The north half of block No. 5, bounded on the north by Sixth street, on the east by Railroad street, on the south by a 20-foot alley running east and west through the center of said block, and on the west by C street, be, and the same is hereby, divested out of the United States and vested in James S. Pinckard, as trustee.

SEC. 3. That all the right, title, and interest of the United States of, in, and to all that certain storehouse and lot situated in the city and county of Montgomery and State of Alabama, and known as No. 22 South Perry street, formerly No. 16 Perry street, be, and the same is hereby, divested out of the United States and vested in Bessie R. Maultsby.

SEC. 4. That all the right, title, and interest of the United States of, in, and to all those certain storehouses and lots, situated in the city and county of Montgomery, State of Alabama, and known as storehouse and lot No. 28 Dexter avenue, formerly No. 28 Market street, and storehouse and lot No. 11 North Perry street, formerly No. 11 Perry street, in said city, be, and the same is hereby, divested out of the United States and vested in Edwin Ferris.

SEC. 5. That all the right, title, and interest of the United States of, in, and to all that certain storehouse and lot situated in the city and county of Montgomery, State of Alabama, known as storehouse No. 109, Dexter avenue, formerly No. 41 Market street, in said city, be, and the same is hereby, divested out of the United States and vested in M. V. B. Chase.

SEC. 6. That the Solicitor of the Treasury of the United States be, and he is hereby, authorized and directed to execute, acknowledge, and deliver to the said several parties herein named such deeds, writings, or assurances as will release, relinquish, and convey unto them, respectively, all the right, title, and interest which the United States may own or claim of, in, and to the respective properties herein mentioned, and to take such further action as may be proper to carry said proposition of settlement into effect.

SEC. 7. That the Solicitor of the Treasury be, and he is hereby, authorized and directed to have all suits now pending in the circuit court of the United States for the middle district of Alabama, or elsewhere, between the United States and the parties herein named, or involving said property above described, either at law or in equity, dismissed, settled, and ended, and to have satisfaction entered upon the records of said courts of all judgments rendered in favor of the United States against said parties, or any of them, or involving said property, and to take such further action as may be proper to carry said proposition of settlement into effect.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

On motion of Mr. JENKINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. CLAYTON. Will the gentleman from Wisconsin allow me to interrupt him before he calls up another bill? I move that House bill 15512, identical with the bill just passed, do lie on the table.

The SPEAKER pro tempore (Mr. DALZELL). The gentleman from Alabama moves to lay the House bill identical with that already passed on the table. Without objection, it will be so ordered.

There was no objection.

SALARIES OF CERTAIN JUDGES OF THE UNITED STATES.

Mr. JENKINS. Mr. Speaker, I desire to call up the bill S. 3287.

The Clerk read as follows:

A bill (S. 3287) to fix the salaries of certain judges of the United States.

Mr. JENKINS. I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

Mr. MOON. Mr. Speaker, I desire to make a parliamentary inquiry. I understand the House is proceeding under a rule giving this day to the Judiciary Committee?

The SPEAKER pro tempore. The gentleman is right.

Mr. MOON. Does the Speaker construe that rule to mean that the committee may take bills from either of the Calendars of the House?

The SPEAKER pro tempore. That is the construction.

Mr. MOON. Then I have no objection to the matter proceeding according to the request of the chairman of the committee.

Mr. UNDERWOOD. I have no objection to considering the bill in the House as in Committee of the Whole. This is an important bill, and I think the gentleman from Wisconsin should allow the same latitude of debate.

The SPEAKER pro tempore. Does the Chair understand the gentleman from Tennessee objected?

Mr. MOON. I made the inquiry for the purpose of ascertaining the exact ruling of the Chair. I construed the rule myself as the Chair has construed it. I have no objection to the House proceeding to the consideration of the bill as in Committee of the Whole.

The SPEAKER pro tempore. Without objection, then, the bill will be considered in the House as in Committee of the Whole.

Mr. UNDERWOOD. Mr. Speaker, I understand some gentlemen on our side may desire to offer amendments, and I hope an opportunity will be afforded.

Mr. JENKINS. Certainly.

The SPEAKER pro tempore. The Clerk will report the bill.

The bill was read, as follows:

A bill (S. 3287) to fix the salaries of certain judges of the United States.

Be it enacted, etc., That the following salaries shall be paid to the several

judges hereinafter mentioned in lieu of the salaries now provided for by law, namely:

To the Chief Justice of the Supreme Court of the United States the sum of $13,000 a year, and to each of the associate justices thereof the sum of $12,500 a year.

To each of the circuit judges the sum of $7,500 a year.

To each of the district judges the sum of $6,250 a year.

To the chief justice of the Court of Claims the sum of $6,125 a year, and to each of the associate justices thereof the sum of $5,625 a year.

To the chief justice of the court of appeals of the District of Columbia the sum of $8,000 a year, and to each of the associate justices thereof the sum of $7,500 a year.

To the chief justice of the Supreme court of the District of Columbia the sum of $6,750 a year, and to each of the associate justices thereof the sum of $6,250 a year.

That after the passage of this act no payment shall be made to any of the judges mentioned in this act for expenses.

That all of said salaries shall be paid in monthly installments.

That one-half of the amount of said salaries which shall be paid to the judges of the court of appeals of the District of Columbia and to judges of the supreme court of the District of Columbia shall be defrayed from the revenues of the District of Columbia.

The amendments recommended by the committee were read, as follows:

(1) Strike out the words "five hundred," in line 11, on page 1.
(2) Strike out the words "two hundred and fifty," in line 13, on page 1.
(3) Strike out the word "one," in line 15, on page 1, and insert in lieu thereof the word "five."
(4) Strike out the words "and twenty-five," in line 15, on page 1.
(5) Strike out the words "associate justices," in line 1, on page 2, and insert in lieu thereof the words "other judges."
(6) Strike out the word "five," in line 1, on page 2, and insert in lieu thereof the word "six."
(7) Strike out the words "six hundred and twenty-five," in line 2, on page 2.
(8) Strike out the word "eight," in line 4, on page 2, and insert in lieu thereof the word "six."
(9) Insert immediately after the word "thousand," in line 4, on page 2, the words "five hundred."
(10) Strike out the word "seven," in line 5, on page 2, and insert in lieu thereof the word "six."
(11) Strike out the words "five hundred," in line 6, on page 2.
(12) After the words "Chief Justice," in line 7, on page 2, insert the words "and to each associate justice."
(13) Strike out all of line 8, after the word "Columbia," and all of line 9, on page 2.
(14) Strike out the words "two hundred and fifty," in line 10, on page 2.
(15) Strike out the word "judges," in line 17, on page 2, and insert in lieu thereof the words "the Chief Justice and to the associate justices."
(16) Strike out the word "judges," in line 18, on page 2, and insert in lieu thereof the words "the Chief Justice and to the associate justices."

Mr. JENKINS. Mr. Speaker, I yield to the gentleman from Kentucky [Mr. SMITH] such time as he may desire.

Mr. SMITH of Kentucky. Mr. Chairman, I was a member of the subcommittee that considered this bill. Not only had I the opportunity to consider such information as was brought to the attention of the subcommittee when the bill was pending before it, but I also had the additional opportunity of considering it in the full Committee on the Judiciary, and I am of the deliberate opinion that the bill ought not to pass. Being thus convinced, I feel that it is incumbent upon me to give to this House the reasons that have induced this conviction upon my part. The committee recommending the passage of this bill, in their report, assign as reasons therefor that the amount of work now required of the various judges embraced by its terms has greatly increased, that the cost of living has been largely enhanced, and that they can not practice their profession. Now, these are the three reasons stated in this report as to why this bill should pass.

I believe, Mr. Speaker, that if the work required to be done by these judges has grown to be so great that they can not by reasonable energy and diligence perform it, that condition can be met only by an increase in the number of judges, and not by an increase of salaries. As to the second reason, I am quite sure that the necessary cost of living has not only not increased over what it was when these salaries were fixed, but is absolutely less to-day than it was then. As to the third reason, that they can not practice their profession, I may say that it is without merit in this connection, since none of them ever sought to do so at any time after their induction into office. This reason, therefore, is no more cogent now than when the existing laws fixing their salaries were enacted, and so far as that sacrifice ought to enter into the matter of determining the size of the salaries it is compensated in the sums now paid.

Mr. GILBERT. All three of these reasons apply to members of Congress.

Mr. SMITH of Kentucky. Yes, and to many other officials, so far as that is concerned. Now, Mr. Speaker, the Supreme Court of the United States was organized under the act of September 24, 1789, which provided for a Chief Justice and 5 associate justices. By the act of April 29, 1802, the number of associate justices was increased to 6. By the act of March 3, 1837, the number of associate justices was increased to 8. By the act of March 3, 1863, the number of associate justices was placed at 9. By the act of July 23, 1866, the number of associates was reduced to 6, and by the act of April 10, 1869, the number was increased to 8. So that we have to-day upon the Supreme Bench of the United States 3 more associate justices than we had when the court was organized under the act of September 24, 1789.

Now, let me invite your attention to the increase of the salaries of these judges. By the act of September 23, 1789, the salary of the Chief Justice was fixed at $4,000, and that of each associate justice at $3,500. These continued to be the salaries of these positions, respectively, until February 20, 1819, when the salary of the Chief Justice was increased to $5,000 and each associate justice to $4,000. This continued to be the scale of salaries for them until the act of March 3, 1855, which allowed the Chief Justice $6,500 and each associate justice $6,000.

This scale of salaries was in force until March 3, 1871, when by an act of Congress the salary of the Chief Justice was fixed at $8,500 and that of each associate justice at $8,000; so that as late as 1871 the Chief Justice of the Supreme Court was paid $8,500 and each associate justice $8,000.

This brings us in regular order to the last act regulating the salaries of these officials, which was and is yet known as the salary-grab act of 1873, which increased the salaries of hundreds of officials, and among them that of the Chief Justice to $10,500 and that of each associate justice to $10,000.

And at this point I desire to call to your attention the fact that Congress, by an act of January 20, 1874, in response to the demands of the indignant people of the United States, repealed the salary-grab act as to every official to which it applied, save and except the President and justices of the Supreme Court. Of these unjust additions to each in the long list of salaries covered by that ill-advised and disreputable act those of the President and justices of the Supreme Court only escaped the trenchant scepter of prompt repeal.

Take the Secretary of each Department of the Government—the Secretary of the Treasury, the Secretary of State, the Secretary of War, the Secretary of the Navy, the Attorney-General, the Postmaster-General, whose salaries were increased to $10,000 by that act—all of them were reduced to $8,000 by the act of January, 1874. So that you have not only had an increase in the membership of this bench since its organization, but you have seen the salary of the supreme justices go from $6,500 for the Chief Justice and $6,000 each for associate justice, in 1867, up to $10,500 for the Chief Justice and $10,000 for each associate justice now.

I now invite your attention to the circuit courts, circuit judges, and their salaries. The first circuit courts of the United States were established by the same act that authorized the Supreme Court of the United States in 1789. There were three circuits made at that time, and the circuit courts were held by two justices of the Supreme Court and the district judge in the district in which the circuit court was to be held. By the act of July 23, 1866, nine circuits were established, and there has been no change in the number since then. By the act of April 10, 1869, the appointment of nine circuit judges was authorized, at a salary of $5,000 each. Nine circuit judges—bear these figures in mind—nine circuit judges were authorized, at a salary of $5,000 each. By the act of March 3, 1871, the salaries of the circuit judges was increased to $6,000 each.

Now, what has happened? You say the work of these judges has greatly increased. I respond that there were no distinctively circuit judges until 1869, when 9 were authorized at $5,000 each per annum, and their salaries were increased two years later to $6,000 each. Since then the number of these judges has been increased to 26, lacking but one of trebling the number authorized thirty-three years ago. If, as contended, the work of these courts has grown in volume, I hazard nothing in asserting that it has been fully provided for from time to time by giving additional judges, the only true remedy for overworked judges. I answer further, that you have not only trebled the number of judges, but you have enlarged the sum paid for circuit judges $111,000 per annum since 1869.

Next consider the matter of district judges. By the same act that organized the Supreme Court of the United States in 1789 the United States was divided into 13 judicial districts, with one judge in each. The district and salary of each judge was as follows, viz: Maine, 1 judge, who received $1,000 per annum; New Hampshire, 1 judge, who received $1,000 per annum; Massachusetts, 1 judge, who received $1,200 per annum; Connecticut, 1 judge, who received $1,000 per annum; New York, 1 judge, who received $1,500 per annum; New Jersey, 1 judge, who received $1,000 per annum; Pennsylvania, 1 judge, who received $1,600 per annum; Delaware, 1 judge, who received $800 per annum; Maryland, 1 judge, who received $1,500 per annum; Virginia, 1 judge, who received $1,800 per annum; Kentucky, 1 judge, who received $1,000 per annum; Georgia, 1 judge, who received $1,500 per annum; South Carolina, 1 judge, who received $1,800 per annum.

Mr. JENKINS. Will the gentleman allow me to ask him a question?

Mr. SMITH of Kentucky. Yes, sir.

Mr. JENKINS. Will the gentleman state the jurisdiction and

work of those judges of whom the gentleman has just been speaking, receiving salaries as low as $1,000 a year?

Mr. SMITH of Kentucky. They were the United States district judges under the act organizing the judicial system of the United States.

Mr. JENKINS. That was nearly a hundred years ago?

Mr. SMITH of Kentucky. So I understand; but there were only 13 district judges, 6 Supreme Court justices, and no circuit judges then.

Mr. JENKINS. But to-day some of those judges have more business to deal with than there was in the whole United States at that time.

Mr. SMITH of Kentucky. Then let us examine some figures of more recent date. As late as 1867, when there were no circuit judges, there were 46 United States district judges, receiving generally salaries of $3,500 each. In California the district judge received $5,000; in Louisiana the district judge received $4,500; in Maryland the district judge received $4,000; in Massachusetts the district judge received $4,000; in Illinois one district judge received $4,000, the other $3,500; in New York there were three district judges, receiving $4,000 each; and in Pennsylvania there were two district judges, receiving each $4,000. In Ohio there was one receiving $3,500, and one receiving $4,000. With those exceptions, every one of the 46 district judges in the United States received in 1867 only $3,500 per annum.

Mr. GRAHAM. Is not the gentleman aware that since the passage of the bankruptcy law an immense amount of business has been imposed upon these district judges? In one district alone in New York 2,200 bankruptcy cases were filed within a year and a half after the passage of that act.

Mr. SMITH of Kentucky. In answer to that suggestion, I beg to call the gentleman's attention to the fact that while we have a bankruptcy law which has to some extent increased the work of these judges, we also had a bankruptcy law and an immense volume of litigation resulting from the civil war and reconstruction in 1870, when we had but 46 of these judges, and no circuit judges whatever.

Mr. GRAHAM. But there was nothing like the business then that has been brought into these courts under the bankruptcy act.

Mr. SMITH of Kentucky. If the gentleman will take up the records of this country, I am sure he will discover quite a different state of things from that which he indicates.

Mr. GRAHAM. Can the gentleman point to 2,200 cases in one district under the law of 1867?

Mr. SMITH of Kentucky. I have not the records before me, but I assume and believe that the business under the old bankruptcy law bears a fair proportion, at least, to the business under the present bankruptcy law. You had then but 46 district judges and no circuit judges. Those district judges, as I have said, received but $3,500 as a general rule in that day, and that continued to be the salary of these judges until 1891, with the exceptions that I have noted.

On the 1st of September last there were 72 district judges in the United States, or 26 more than there were in 1867, so that there are to-day 52 more circuit and district judges than in 1867, more than 100 per cent increase.

Mr. GROSVENOR. Will the gentleman allow me a question?

Mr. SMITH of Kentucky. With pleasure.

Mr. GROSVENOR. One of the very latest district judgeships that has been provided for by Congress was, I believe, for the gentleman's State of Kentucky.

Mr. SMITH of Kentucky. That is true.

Mr. GROSVENOR. Did the gentleman at the time that judgeship was authorized show a lack of necessity for that additional judge?

Mr. SMITH of Kentucky. No; because it was needed, and my action then was and is in line with my argument now in opposition to the position of the committee holding that the pay of these judges should be increased because the work has increased. I say that the true remedy for the increase of business, the true way to meet this exigency, if any exist, which I deny, is by an increase in the number of judges, not an increase of salary. [Applause.] That is my theory about such condition. [Applause on the Democratic side.] Not only has the number of district judges been enlarged more than 56 per cent since 1867, but by the act of 1891 their salaries were fixed at the uniform rate of $5,000 per annum in lieu of those allowed by the act of March 3, 1867, and stated by me a few moments ago.

Mr. WOOTEN. Mr. Speaker, I would ask the gentleman if he does not think that the number of these judges could be further decreased by confining these courts within their constitutional jurisdiction and keeping them from usurping the rights of the State courts?

Mr. SMITH of Kentucky. I am aware that there is a divergency of views upon that question, and it is not a part of my purpose to-day to discuss that phase of the matter. I am endeavoring, in my humble way, to give to the members of this House the reasons that cause me to oppose this measure. Now, let us see somewhat further. This bill includes also the judges of the District of Columbia.

By an act of Congress of March 3, 1863, there was established for the District of Columbia what is known as the supreme court of the District. The act provided that it should have four justices, one of whom was to be the chief justice. The court was given original and appellate jurisdiction. The four judges of the court received salaries of $3,000 per annum each, or a total of $12,000 per annum for the judges of the supreme court with its original and appellate jurisdiction in the District of Columbia in 1863. Is is really interesting to note how that court has progressed, if not in all respects, at least in adding to its membership and salaries and limiting its jurisdiction. By the act of June 1, 1866, the salaries of these judges were increased to $4,500 per annum for the chief justice and $4,000 per annum for each associate justice. By the act of February 9, 1893, their salaries were increased to $5,000 per annum.

Mr. KLEBERG. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman yield?

Mr. SMITH of Kentucky. Yes.

Mr. KLEBERG. I notice here that the chief justice of the court of appeals of the District of Columbia gets only $6,000——

Mr. SMITH of Kentucky. I will get to that.

Mr. KLEBERG. I want to know the reason for the discrimination. It seems that those are the only judges who are not benefited by the bill.

Mr. SMITH of Kentucky. I will get to that in its order. Now, as I said, Mr. Speaker, in 1863 the salaries of these District of Columbia judges were fixed at $3,000, increased to $4,000 in 1866 and to $5,000 in 1893. In the meantime Congress had, by the act of June 21, 1870, added one additional justice to that bench. By an act of February 25, 1879, Congress added a second additional justice to the supreme court bench of the District of Columbia, so that there has been an increase in the number of judges on that bench since 1863 by 50 per cent and a growth of 66 per cent in each salary. Nor are these the only changes that have occurred affecting that tribunal. By the act of February 9, 1893, Congress created in this District what is known as the court of appeals of the District of Columbia, relieving the supreme court of much of its appellate jurisdiction, which was conferred upon it by the act establishing it. So that, condensely stated, the matter stands as follows:

The supreme court of the District of Columbia, organized in 1863 with four judges with salaries of $3,000 each, and having both original and appellant jurisdiction, now, with its jurisdiction greatly diminished, has six judges receiving salaries of $5,000 each, and this bill, if enacted into law, will give the chief justice of that court $6,500 and each associate $6,000 per annum. In 1893, as I said, there was provided for this District what was and is known as the court of appeals of the District of Columbia, relieving the supreme court of its appellate jurisdiction. This bill does not provide one solitary cent increase of salary to the judges of the court of appeals, three in number—one chief justice and two associate justices. I make the assertion here and now, and I challenge the honorable chairman of the committee or any member who may be opposed to my views upon this question to show a single State in the Union in which the nisi prius judges are paid as much as the members of the supreme or the appellate bench.

Mr. JENKINS. I would ask the gentleman what that court gets now?

Mr. SMITH of Kentucky. By the act establishing the court the chief justice gets $6,500 and the associate justices $6,000.

Mr. JENKINS. They have had no increase since the court was organized?

Mr. SMITH of Kentucky. No; that was by the act of February 9, 1893, which authorized the court of appeals.

Mr. JENKINS. They have had that salary ever since the court was organized?

Mr. SMITH of Kentucky. Yes, and this bill does not increase those sums by one solitary cent, but places the judges of the supreme court of the District on an equality with them so far as salary is concerned. It seems to me, Mr. Speaker, that if there is to be any increase to any of these judicial officers, the members of the appellate bench in the District of Columbia are as justly entitled to an increase as any other judicial officers mentioned in the bill. But let us see now somewhat further how the matter stands by way of recapitulation. Let us compare the number of judges and amounts paid at present for salaries with those of 1867.

In 1867 there was a Chief Justice of the Supreme Court of the United States, receiving $6,500 per annum, and six associate justices, receiving $36,000. In other words, there was paid to the members of the Supreme Court of the United States $42,500 per

annum as the law stood in 1867. The Government is paying now to the Chief Justice $10,500 and to each associate justice $8,000, or a total of $90,500 now as against $42,500 in 1867. It is now proposed to make an increase of $23,000, increasing the annual charge to $113,000 per annum, as against $42,500 in 1867, a difference of $70,500, or an enhancement of more than 165 per cent in these salaries since 1867.

The Court of Claims is included in this measure. It is proposed to increase the salaries of the judges of that court from $4,500 each, as fixed by the act of February 24, 1855 (and has remained at all times since), to $6,500 for the chief justice and $6,000 for each of the four associate justices; thus instead of a total of $22,500 on this account it is intended by this bill to make it $30,500 per annum, making a net addition of $8,000 per annum.

The salaries that this bill provides for circuit judges will require the Government to pay per annum $182,000 to the 26 circuit judges of the United States, whereas it paid nothing on that account in 1867.

For the District judges the people are paying now $192,000 per annum more than was paid in 1867. If this bill passes they will have to pay $264,000 dollars per annum more than was paid at that date. In 1867 there were four judges in the District of Columbia, and their pay aggregated $16,500 per annum. Now there are nine whose annual salaries amount to $48,500, an increase of 125 per cent in number and nearly 300 per cent in the sum of their pay. Still the committee, in defiance of these facts and, as I believe, of right and propriety, advise a further allowance of $1,000 to each of the six supreme court judges.

So that the United States to-day is paying to Supreme Court justices $48,000 per annum more than in 1867; to circuit judges $156,000 per annum more than in 1867; to district judges $192,000 per annum more than in 1867; to judges for the District of Columbia $31,500 more than in 1867, a total of $427,500 annually in excess of the sum paid thirty-five years ago. Yet this bill proposes further increases amounting to $125,000 per annum.

The increase of judges within that time has been as follows, viz:

	Number of judges.		Increase.
	1867.	1902.	
Supreme Court justices	7	9	2
Circuit judges		26	26
District judges	46	72	26
District of Columbia judges	4	9	5
Total	57	116	79

Now, Mr. Speaker, as I said in the beginning, I believe this bill is without merit: I believe also that it is an unfair and an unjust discrimination among the public officials of the United States.

Compare the salaries of the Cabinet officers of the United States with those in this bill. By the act of March 3, 1853, the secretary at the head of each department of this Government was given a salary of $8,000 per annum. He has been compelled to live and support his family upon that compensation from that day until this, with the exception of the time the salary-grab act was operative. Gentlemen who are advocating this measure do not come with a bill saying that we should increase the salary of the Secretary of State, of the Secretary of the Treasury, and so all along the line, because the cost of living has greatly increased. Why not? Their salaries were fixed in 1853, when the cost of living was far less than it was from 1867 to 1873, and far less than it is now.

Consider the salaries of Representatives and Senators in Congress. The salaries of the members of Congress and of the Senate were fixed by the act of July 28, 1866, at $5,000 for each member and $8,000 for the Speaker of the House. Where is the advocate of this bill, who is saying to this body and to the country that the cost of living has greatly increased, that the work has greatly increased, and we should increase the salary of members of Congress? All of these salaries are great enough. They ought not to be advanced; but, sirs, if the members of Congress, if the secretaries standing at the head of the great departments of Government, holding offices thoroughly political, having multiplied social and political exactions to meet and burdens to bear that are unknown to these judges, with brief and in some instances uncertain tenures of office, can live upon the salaries that were fixed for them, respectively, back in the fifties and sixties, I do not hesitate to declare that these judges can live upon their salaries that have been increased frequently since those days.

But now, again, I want to say, in all candor, that if there is a class of United States officials whose salaries should not be increased it is the members of the judiciary. Why do I say that? They are getting good round sums already. There is not a civil officer resident within the United States, save and except the President, who draws as much as $10,000 per annum outside of these Supreme Court justices. In other words, these Supreme Court justices get the highest salaries paid to any civil officers resident within the United States, save alone the President of the great Republic.

Mr. McCLELLAN. Does not the collector of the port of New York receive $12,000? That is my impression.

Mr. SMITH of Kentucky. Well, I do not remember. I may be mistaken about that.

Mr. McCLELLAN. Yes.

Mr. SMITH of Kentucky. I have not been able to trace them all, but so far as my investigation has gone, they are the highest paid officials under the Government.

Not only are they drawing the best salaries under the Government, but they are permitted a valuable privilege that no other civil officer within the Government has. At the age of 70, if they have served ten years upon the bench, they can retire upon full pay a privilege, I believe, that is not given to any other officer, civil or military, within the United States, because, I think, the military officials retire upon part pay and not upon full pay.

In the meantime, I maintain the proposition that these salaries are ample to afford them a reasonable competence for themselves and families while they live. I think reliable statistics will disclose the fact that the level of prices of the necessities and luxuries of life generally were higher from 1867 to 1873 than now. There can certainly be no apology for a gentleman whose income is $10,000 per annum not being able to live in good style in Washington or elsewhere. I do not for myself see why that can not be done; and not only that, but one should be able to devote enough of his salary to the purchase of insurance so as to protect his family when death shall have cut him off from his salary. So with the district and circuit judges. They are given this privilege of retiring; likewise the judges of the District of Columbia.

Mr. GRAHAM. Will the gentleman permit me to interrupt him for just a question?

Mr. SMITH of Kentucky. Certainly.

Mr. GRAHAM. Is not the gentleman aware that the increase in business, the increase in population, has also increased the burden upon our judges? It is a fact that in the county I represent in part, since 1867, that the gentleman alludes to, during that time the court of common pleas has been enlarged by two additional courts with three additional judges, six judges having been added to the court since this time, and all these judges as busy as they can be holding courts during all the available season of the year, and each one of them paid $7,000 per annum, a thousand dollars more than you will allow by this bill to the circuit judges.

Mr. SMITH of Kentucky. Mr. Speaker, I have endeavored the best I could to show that the remedy for the increase of work is an increase in the number of judges and not an increase in the salaries. I do not understand by what process of reasoning the gentleman can come to the conclusion that a man can do more work when he is getting $12,500 per annum than he can when he is getting $10,000. If he is an honest man, if he is a faithful public official, he can and will do as good service at $10,000 a year as he will at $20,000. A fidelity to public duty adjustable on a financial scale is not the kind needed or desirable in the public service.

Mr. GRAHAM. How is the gentleman going to get talented men to fill such great places as the judges who are paid $7,000? And here we limit them in this bill for circuit judges and district judges to less. How is he going to get the talent and ability to fill those places?

Mr. SMITH of Kentucky. Mr. Speaker, I am glad that the gentleman calls my attention to that fact. I want to answer his question by reminding him that when we paid $4,500 to the Chief Justice of the Supreme Court of the United States we had such men as John Jay, John Marshall, Roger B. Taney, Morrison R. Waite; when we were paying the associate justices but $4,000 per annum we had such men as William Cushing, Robert Harrison, John Blair, William Patterson, Samuel Chase, Bushrod Washington, and a long list of men whose great learning and ability will be respected and admired through the ceaseless ages to come by the American people. [Loud applause.]

Mr. GRAHAM. And while they were paying these salaries, was the gentleman not aware that members of Congress were paid far less salaries than they have now, and we had such men as Henry Clay, Daniel Webster, and other great men of the country? Is it a question of salary?

Mr. SMITH of Kentucky. I am glad the gentleman agrees with my position, that it is not the salary that should induce men to assume these places. I maintain, Mr. Speaker, that any man that would make the money that he gets from public office the sole incentive to accept office is unworthy to fill a position of public trust. [Loud applause.]

The people demand and should have men for public servants who are competent, honest, and patriotic; men who have an abiding purpose to promote the happiness and welfare of all their fellow-men. That is what I stand for; that is what I believe in.

I do not, and I am sure the people of the United States do not, object to fair and reasonable allowances to public servants for their labors, but extravagance and undue liberality with public funds ought not to be indulged in by officials or tolerated by the people. I have no doubt that the present compensation is ample to afford these officials a liberal sustenance for themselves and families, and the only apology, in my opinion, for this legislation is to be found in the views of some gentlemen that the dignity and honor of official station can be augmented or diminished by adding to or taking from the emoluments thereof.

I have no sympathy with this idea. I denounce it as a pernicious fallacy begotten by the evil spirit of commercialism that seems to be so universally dominant in this age. It will, in my judgment, be an evil day for this Republic when it adopts the policy of competing with the trusts and combinations in the salaries paid, and when men are only moved to aspire to public office for the sordid and selfish purpose of financial gain. The man who has no higher conception of affairs than that an office is to be sought merely because of its emoluments is unfit to perform its duties and unworthy to be trusted. [Applause.]

And now, Mr. Speaker, I have, at greater length than I intended, given the reasons that induce me to oppose this measure. I ask as an act of justice to the great masses of the people of this country, as I believe I can do without an injustice to the men themselves who fill these positions, that this House vote this bill down. [Loud applause.]

Mr. JENKINS. Now, Mr. Speaker, I yield to the gentleman from Illinois [Mr. WARNER] who reported the bill.

Mr. WARNER. Mr. Speaker, it is entirely immaterial in the decision of the questions we are considering what salaries have been paid Federal judges in the past. The question we should consider and the facts we should be influenced by are as to what the present market value of such learning and ability as should be brought to the Federal bench now is. Are we paying them more than they should be paid? Does this bill propose to pay them more than should be paid them for the learning and ability they should have in order to be appointed to or accept these positions?

When I commenced the practice of law, not so many years ago, a twenty-five-dollar fee in Illinois was very respectable. A practicing lawyer now, even in a country town in that State, is not greatly surprised at a thousand-dollar fee. Litigation has increased in the number of cases and in their importance. Larger fees are paid and expected. Lawyers can command greater salaries and make larger incomes. There is not a railroad corporation in the United States, or any other corporation of any importance, that does not pay its general solicitor or general counsel more than this bill proposes to pay to the Chief Justice of the United States.

A salary of $13,000 a year for a corporation counsel is not exorbitant, it is not above the average, and yet this bill proposes to pay to the district judges of the United States only $6,000 a year and takes away from them all compensation for traveling expenses. The truth about it is that the salaries of only three or four classes of judges are in effect increased. The salaries of the justices of the Supreme Court of the United States are increased 25 per cent. The Chief Justice's salary is increased from $10,500 to $13,000. The associate justices from $10,000 to $12,500. There is an increase.

The next increase comes to the judges of the Court of Claims. The bill proposes to increase their salaries $1,500 a year. Then it increases the salaries of the circuit judges $1,000 and the salaries of the district judges $1,000. That is all, but it takes away from the circuit judges and the district judges any compensation whatever for traveling or other expenses when they are on duty away from their homes. So, as a matter of fact, it does not increase the compensation of the circuit or the district judges.

Mr. RICHARDSON of Alabama. Will the gentleman allow me a question?

Mr. WARNER. Certainly.

Mr. RICHARDSON of Alabama. Did I understand the gentleman to say that under the present bill everything in the way of extra charge, traveling expenses, etc., is taken from them?

Mr. WARNER. All taken from them by this bill.

Mr. RICHARDSON of Alabama. And he is not allowed the ordinary $10 a day?

Mr. WARNER. All extra compensation is taken away and the salary covers everything. The material increase in the salaries of the justices of the Supreme Court of the United States, I think, is amply warranted. The salaries paid to these high officials of the United States are almost disgraceful. They are the least paid of any judiciary of any country on earth. Compare their salaries with those paid the judiciary of Great Britain.

In England the lord high chancellor is paid $50,000 a year; three lords of appeal, each $30,000 a year; the master of the rolls, $30,000 a year; five lord justices, each $25,000 a year; the lord chief justice, $40,000 a year; five chancery justices, each $25,000 a year; fourteen queen's bench justices, each $25,000 a year; probate, divorce, and admiralty justices, two of each, $25,000 a year each; judge of the court of arches, $25,000 a year.

Take it in our own country. In New York the associate justices are each paid $17,500 a year; judges of the general session, $12,000 a year. In New Jersey the chief justice gets $10,000 a year; associate justices, $9,000 a year, and the chancellor $10,000 a year. In Illinois the judges of the supreme court get $7,500 a year; in Iowa, $6,000 a year; in Pennsylvania, $8,000 a year, and the chief justice $8,500 a year.

It is contended that the Federal judges get enough as it is, because they can retire on full pay after ten years' service, upon arriving at the age of 70 years or over. I will say in reply to that, that while they are on the bench they must give up their entire time to their judicial duties, and they should receive salary enough that they may not be in danger of pecuniary want, either in the present or in the future. It would be a sad spectacle to see the widow of the Chief Justice of the United States or the widow of an associate justice of the United States compelled to earn her own living after his decease.

These justices, it is said, can retire on full pay after they have served for ten years and have arrived at the age of 70. Let me say, sir, that very few Federal judges, either on the Supreme bench or on the bench of the district or circuit courts, retire until they become mentally incapable of performing further service. They stick to their work; they remain steadfast to their duty, and they do not take advantage of the retiring statute until they find they are compelled to do so on account of the waning of their ability, and in general they live but a short time after they have retired.

How many retired judges are now living in the United States drawing their salaries? The gentleman says that no other class of people, no other officials of the United States, can retire on full pay after having performed such service. Sir, we take young men from the country and we place them at West Point or Annapolis. We educate them; we give them the best education in the world; we pay them salaries while they are obtaining this education, and then we place them in the Army or the Navy. As officers of the Navy they hold their positions, earning longevity pay, until they reach the age of 62, when, being substantially still in the prime of life, they are retired on three-quarters pay, with a longevity allowance in addition, sufficient to raise their compensation to more than their original pay; and when thus retired they can go into the active business of life if they see fit.

An officer in the Army is retired at the age of 64 on three-quarters pay, with a longevity allowance additional, making more than the statutory pay of his rank. Sir, there are many of us on this floor who have almost arrived at that age, and who think that we are still capable of engaging in business, of going out and making the fight for our livelihood. But these judges, when they retire from the bench, retire for good. It is too late for them to go into business in private life. It would have been improper for them to engage in any such business during their judicial service.

Sir, the justices of our Supreme Court are not paid enough. The amount proposed by this bill is small enough. But the poorest paid judicial officers of the Government are the judges of the Court of Claims. That is a tribunal next in importance to the Supreme Court of the United States. It was created in 1855. At that time the salary of the judges of that court was fixed at $4,000 a year. The associate justices of the Supreme Court received at that time only $4,500 a year; the judges of the Court of Claims received only $500 a year less than the associate justices of the Supreme Court. Yet the pay of the Supreme Court justices has been advanced to $10,000 a year, while that of the judges of the Court of Claims has been left just where it was.

In 1855, when the salaries of the judges of the Court of Claims were fixed, Representatives and Senators received only $1,500 a year. Their pay was $8 a day during the sessions of Congress, and Congress was not in session, on an average, more than six months in a year. Since that time the pay of Senators and Representatives has been increased to $5,000 a year, while the salaries of the judges of the Court of Claims have remained at $4,500.

I repeat, with the exception of the United States Supreme Court, there is no more important court in this country than the Court of Claims. The business of that court has increased immensely. It does a great deal of work, and it saves this Government millions of dollars. It has almost unlimited jurisdiction, embracing cases of every description. It is related that on one day that court was engaged in deciding the question as to whether a statement made by Napoleon at St. Helena was competent evidence on the hearing of the French spoliation claims; the next day the court was called upon to decide whether an officer of the United States when he captured a razor-back hog in Georgia during the rebellion appropriated it to his own use or to the use of the Government of the United States, the decision of this

question being required in order to determine whether the Government was liable to the loyal Georgia owner for the hog.

Again, that court spent two days in hearing and deciding a case involving only $2.50, and the very next case resulted in a judgment by that court for $700,000.

As showing something of what that court has saved for the country, I refer to a case reported in 20 Court of Claims Reports, 112, one of the Pacific railroad cases, involving a claim by the railroad company against the Government amounting to $2,910,-124.18. The Government filed a counterclaim of $4,487,807.39, and the Court of Claims rendered a judgment against the railroad company and in favor of the Government for $1,577,683.21. The court saved the Government in that one case several million dollars.

In the Carter case, coming from Savannah, the bondsmen came into this court with a claim against the Government. The Attorney-General, perhaps not realizing what might be the effect of his suggestion, suggested that he might wish to file a counterclaim and that he wished the case postponed one day. The case was postponed. The attorneys for the plaintiffs saw the trouble that they were liable to get into, and dismissed their case, and we have never heard of it since. If the Attorney-General had filed his counterclaim then and there, the plaintiffs would not have been in a position to withdraw their claim; the matter would have been settled by the court, and in all probability the court would have rendered a judgment against those bondsmen in favor of the United States for the full amount embezzled by Captain Carter at Savannah.

This court has been neglected. This bill raises the salaries of its judges to $6,000 and the salary of its chief justice to $6,500. That is small enough, but some complaint is made that we have not raised other salaries high enough—the salaries of the justices of the court of appeals in the District of Columbia. I am of opinion that we have made the salaries of the judges in the District of Columbia too high. We place the supreme court justices on the same footing and on an equality with district justices of the United States and give them $6,000.

The justices of the court of appeals now receive $6,000 and the chief justice of the court of appeals $6,500. There are only 300,000 people in the District of Columbia. There are 6 justices of the supreme court in this little district of 300,000 people, a chief justice, and 5 associate justices. This bill gives each of them $6,000. There are 2 justices of the court of appeals and 1 chief justice. Under the law, which we do not disturb or propose to disturb, we give the associate justices of the court of appeals $6,000 each and the chief justice $6,500. That, I think, is ample and sufficient, and liberal for the District of Columbia.

Mr. KLEBERG. Why is this discrimination made? Does not the bill raise the salary of every Federal judge in the United States, except the judges of the court of appeals?

Mr. WARNER. We thought the judges of the court of appeals were paid too much before. Some of the Federal justices were paid too little, and some of them werepaid almost enough. We then raised the salaries of the circuit justices of the United States. They had $6,000 and we made it $7,000, but took away the extra compensation.

Mr. KLEBERG. Do not the judges of the Supreme Court and of the court of appeals occupy higher positions?

Mr. WARNER. Relatively and technically they do; otherwise not. They have no larger jurisdiction. You can take cases from the Patent Office to the court of appeals of the District of Columbia.

Mr. KLEBERG. Has not the business of that court increased proportionately to the general business of other judges of the Union?

Mr. WARNER. I presume it has proportionately, but you have had too many judges in the District of Columbia from the commencement down to this time. Nine judges is a large force for a community of 300,000 people and a few square miles of territory. I know there is a great pressure brought to bear here in the District of Columbia to increase the salaries of all the judges of the District of Columbia. In the bill as it came from the Senate the associate justices of the court of appeals were to receive $8,000 and the chief justice $8,500 per year. The salaries have been unequally apportioned heretofore, as will be seen when they are compared with the salaries of circuit and district justices outside of the District.

We must remember when considering the question that circuit and district justices, outside the District of Columbia, in the discharge of their duties are compelled to hold their courts at places other than their homes; that they are at considerable expense in going to and from and while remaining at those places, and that District of Columbia justices are never required to hold court outside the District of Columbia and can always be at home. I submit that the people of the United States, with dignity, can not afford to allow the salaries of the justices of the Supreme Court and the judges of the Court of Claims to remain as they are. It is stated in the report favoring the passage of this bill that the cost of living has increased.

Each one of us on this floor is a witness and a juror on that question. We know of our own knowledge whether during the last fifteen years the cost of living has increased in the city of Washington and in the United States generally. We know all about that. We know that litigation has increased. On that question, I think the gentlemen on the other side are estopped from complaining, at least those of them who may oppose this measure, because they have on that side to-day voted to make two or three additional Federal justices in the United States, and upon the ground of necessity. There was not a dissenting voice. The judges have increased and the business has increased, and it is but proper that we should give these men reasonable compensation for the learning and the ability that they should bring to their offices. They could make more in private occupations, in the practice of their professions.

Mr. MANN. I would ask the gentleman what is the extra compensation that the judges receive to-day? I refer to the judges of the circuit court.

Mr. WARNER. When they serve on the court of appeals, as I remember, they get $10 a day, and a district judge, if he is detailed on the court of appeals outside of his district, as I remember, gets $10 a day extra.

Mr. MANN. Do I understand my colleague to say that under this bill if a district judge holds court outside of his district he will be entitled to no additional compensation?

Mr. WARNER. None whatever. Here is the provision, line 14, page 2:

That after the passage of this act no payment shall be made to any of the judges mentioned in this act for expenses.

I will say that, so far as I am concerned, I am perfectly willing to have that stricken out.

Mr. OVERSTREET. The district judges do not get anything at all now for expenses. The circuit judges do.

Mr. WARNER. Then I stand corrected.

Mr. MANN. What is the gentleman's statement?

Mr. OVERSTREET. The district judges do not get any additional pay for expenses under the present law. The circuit judges are entitled to $10 a day for expenses under the present law.

Mr. MANN. The district judges who hold court outside of their districts do get additional pay.

Mr. OVERSTREET. When they hold court outside of their districts, but not inside of them.

Mr. MANN. Does this propose to prohibit the additional compensation of district judges who hold court outside of their districts? Is it proposed to prohibit them from receiving additional compensation?

Mr. WARNER. If this were submitted to me as a judge, on first blush and without going into the authorities on the subject, I should say that it cut off all compensation other than the salary.

Mr. MANN. Then I would call my colleague's attention to this state of affairs. In our district and in our circuit in the city of Chicago there are constantly from one to three district judges from other districts holding court. It is preposterous to suppose that you will get those district judges to come there and pay their own expenses when they receive no additional compensation.

Mr. WARNER. That is absolutely true, and for that reason I most strongly favor giving the northern district of Illinois an extra circuit judge and an extra district judge.

Mr. MANN. Oh, well, we want three or four district judges.

Mr. WARNER. We will take all they give us.

Mr. MANN. The fact is, we use the district judges from Wisconsin, who, in their districts, do not have a great deal of business. They help us out in the city of Chicago.

Mr. WARNER. You admit that the business is increasing, and that the judges are overworked?

Mr. MANN. On the contrary, I am prepared to show my colleague that the Federal business in the circuit and district courts in Chicago is not as great to-day as it was a year ago, was not as great a year ago as it was two years ago, and was not as great two years ago as it was ten years ago.

Mr. WARNER. It would be very interesting reading if you would furnish it.

Mr. MANN. All you need to do is to consult the reports of the Attorney-General of the United States, which I have done.

Mr. WARNER. I know that Chicago and Cook County and northern Illinois are constantly calling and begging for outside help, not only on the Federal bench but on the State bench. They call in circuit judges from the country all over the State to come and hold court for them in the State courts, and pay them $10 a day extra for doing it.

Mr. MANN. Does my colleague think any of the circuit judges outside of Chicago would come to Chicago and hold court in the State courts for nothing?

Mr. WARNER. Yes; I think they would, just to practice on you gentlemen.

Mr. MANN. No; the practice would be the other way. We would have to practice on them.

Mr. LANDIS. I would like to ask the gentleman if it is not true that the court is behind in its work?

Mr. WARNER. Where?

Mr. LANDIS. In Cook County.

Mr. WARNER. I am not familiar with the condition of Cook County. The gentleman from Cook [Mr. MANN] can probably tell you.

Mr. LANDIS. Is not that true?

Mr. MANN. I did not hear the question of the gentleman from Indiana.

Mr. LANDIS. That the work of the United States circuit courts is behind.

Mr. MANN. The United States circuit court in Chicago is nearer up with its work to-day than it was a year ago, and it disposed of more suits last year than were commenced during the year.

Mr. LANDIS. In the gentleman's judgment there is no demand, then——

Mr. MANN. Why, there are four or five hundred cases pending and undisposed of in the United States circuit court in Chicago, and 2,000 cases pending and undisposed of in the United States court in New York.

Mr. DRISCOLL. Mr. Speaker, I wish to be recognized for five minutes.

The SPEAKER pro tempore. The gentleman from New York is recognized.

Mr. DRISCOLL. After hearing this debate so far, I have come to the conclusion that this is about the same old story all the way through. From path master to judge of the Supreme Court, they strive, most of them, in season and out of season, for the job. They pull all the wires within reach for the appointment. They run here and there, I say with rare exceptions, for the appointment; and they hardly get warm in their seats when they begin to apply for an increase of salary. [Applause.] Just as soon as they are in and are covered by the civil service or statute law, they think their services are not appreciated, and they are worth more than the salary paid. If I had my way, I would fix the organic law so that no man could get an increase of salary during the time for which he is appointed or elected. The salary, if increased at all, should be increased before he is appointed or before he is elected, so that he could not use his political or judicial influence in jacking up the salaries after he has got the place. I think that ought to be a part of our organic law, in order that the members of every legislative body should be protected from the social and political influences of people who have places and want to get their salaries increased.

The judges are all honorable and distinguished men. I have no criticism to offer with respect to them; but they have the places for life, and if they live to be 70 years of age they have pensions during the rest of their time. I believe in pensions for the old soldier, but not in a civil pension list; and when these men are assured of good salaries and permanent positions while they are able to work and pensions while they live, they ought to be satisfied with that, and take the rest out in honor and dignity. [Applause.] I do not believe, either, in this unfair discrimination, which will tempt judges to stay at home rather than to go away, where they are called upon to pay their own expenses. It favors the men who live in the large cities and are permanently located. I do not know that it favors those who have to travel long distances and pay their own expenses; but I am against the general proposition that as soon as a man gets a good job he shall lobby all along the line to increase the salary. [Applause.]

Mr. JENKINS. Mr. Speaker, I move that general debate be closed on this bill in thirty minutes.

The SPEAKER pro tempore. The gentleman from Wisconsin moves that general debate on the bill be closed in thirty minutes.

Mr. MANN. Mr. Speaker, is that motion in order?

The SPEAKER pro tempore. It is.

Mr. UNDERWOOD. Mr. Speaker, I will ask the gentleman if he will yield to me five minutes of that time?

Mr. JENKINS. Certainly.

The question was taken, and the motion was agreed to.

Mr. JENKINS. I now yield ten minutes to the gentleman from Tennessee [Mr. GAINES].

[Mr. GAINES of Tennessee addressed the House. See Appendix.]

Mr. JENKINS. Mr. Speaker, I now yield to the gentleman from Alabama [Mr. UNDERWOOD].

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed with amendments bills of the following titles in which the concurrence of the House was requested:

H. R. 15922. An act making appropriations for the suppression and to prevent the spread of contagious and infectious diseases of live stock, and for other purposes; and

H. R. 16604. An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1904.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 6132) granting an increase of pension to Fannie McHarg.

The message also announced that the Senate had passed the following resolutions; in which the concurrence of the House was requested:

Senate concurrent resolution 55.

Resolved by the Senate (the House of Representatives concurring), That 2,500 copies of the revised code of law of the District of Columbia be printed and bound, 500 copies for the use of the Senate, 1,000 for the use of the House of Representatives, and 1,000 for sale by the superintendent of documents.

Senate concurrent resolution 57.

Resolved by the Senate (the House of Representatives concurring), That there be printed, as it originally appeared in the report of the Secretary of the Interior of the United States, but with the addition of 50 full-page illustrations, 7,000 copies of the Report of the Commissioner of Education for Porto Rico, of which 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, 2,500 for the use of the Commissioner of Education of the United States, and 1,500 for the use of the commissioner of education for Porto Rico.

Mr. UNDERWOOD. Mr. Speaker, I think there is no one of the three coordinate branches of the Government that is of more importance to the masses of the people than the judiciary. From the legislative branch there is an appeal; that is to say, the laws we pass must be weighed in reference to the question whether they are in conflict with the Federal Constitution. The legislative branch itself exercises a restraining hand on the executive branch when it sees proper to do so, but the judicial branch of the Government is the tribunal of final resort, from whose decision there is no appeal. And it is of the utmost importance to the people, and especially to the common people—the plain people—that these courts should be presided over by men of the greatest ability that can be obtained from the leading lawyers of the country.

The law in the beginning was not enacted or enforced for the strong and the mighty. The rules of law and the rules of civilized society were inaugurated that the weak might be protected against the strong. And those in our Government who are charged with the duty of protecting the weak against the strong are the men who sit on the bench as judges and decide between man and man as to their liberty and property rights. Therefore I believe that in the selection of men to fill these offices we should always exercise the greatest care, and we should, as far as possible, make the position such that the best men may be obtained to fill these positions.

Now, we all know that under the salaries now paid to the Federal judiciary there are many of the most eminent lawyers at the bar who can not accept these positions, no matter how honorable they feel them to be, because they feel that they owe a duty to their families to lay up something for the future. They are living, many of them, with their families in large cities, where they can not live on the salaries paid to the Federal judiciary. Therefore, it often occurs that the services of the ablest men at the bar can not be obtained when a vacancy occurs on the Federal bench.

It is beyond question that there are numbers of eminent lawyers practicing before the Supreme Court of the United States whose earnings at the bar amount to $25,000 to $50,000 a year. These men can not afford to give up the incomes that they are earning at the bar and accept as their life work a judicial position which, if accepted, must be accepted at so great a pecuniary loss.

Now, in this day, when we hear so much about the trusts—when it is claimed that the trusts are oppressing the masses of the common people—when we hear that the great railroad corporations are constantly extending their operations and infringing on the rights of the people, is this not a time when we should provide for the selection of men of great ability to preside over our courts and determine the questions of law that come up between the trusts and the merchant; between the great railroad corporations and the common people?

[Here the hammer fell.]

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

The SPEAKER laid before the House, with amendments of the Senate, the bill (H. R. 16604) making appropriations for the diplomatic and consular service of the Government for the fiscal year ending June 30, 1904.

Mr. ADAMS. I move that the House nonconcur in the amendments of the Senate, and ask for a conference.

The motion was agreed to.

The SPEAKER announced the appointment of Mr. HITT, Mr. ADAMS, and Mr. DINSMORE as conferees on the part of the House.

SALARIES OF UNITED STATES JUDGES.

Mr. JENKINS. I yield five minutes to the gentleman from Indiana [Mr. CRUMPACKER].

Mr. CRUMPACKER. Mr. Speaker, I am in favor of the pending bill because I believe, taking everything into consideration, it is eminently just and fair. I know the disposition of public functionaries to beseech Congressmen for an increase of salary. But I do not believe that disposition characterizes the judiciary. I think the judiciary, Federal and State, is more poorly paid than any other class of public servants in the whole country. This comes about, probably, from the reason that when a man becomes a judge he ceases to be a politician; and the ethics of the bench preclude him from employing the usual methods employed by other public officers in seeking to bring about an increase of salary.

I had the honor at one time in my life to be a member of the court of appeals of the State of Indiana. There were five members of that court; and the clerk of the court, who had control of the records and the files, received more pay for his services than all five of the judges combined. This unjust discrepancy is not characteristic of official pay in all the States; it is not so in relation to the Federal judiciary and is no longer the case in Indiana. But, taking everything into consideration, I think the pay of the Federal judiciary is too low, compared with other salaries.

It is difficult to establish any philosophical or scientific basis for official salaries. They must be measured according to the requirements of the situation, viewed from a large standpoint. Salaries ought to be such as to command the very best talent that can be obtained. The Chief Justice of the Supreme Court of the United States gets to-day a salary of $10,500—less than the salary of the General of the Army; less than the salary of the Lieutenant-General of the Army; less than the salary of the Admiral of the Navy.

I understand the distinguished warrior who occupies the chief position in the naval organization at this time gets in the neighborhood of $17,000 a year for his official services, and if not theorectially he is practically upon the retired list. The associate justices of the Supreme Court receive $10,000 each. In determining the amount of salary to be paid to judicial officers, the dignity of the position must be taken into consideration, together with the demands upon the official and his family from a social standpoint. These are important factors to be considered. Are not the demands on the Chief Justice of the Supreme Court of the United States as great socially and in every other way as are the demands upon the General or the Lieutenant-General of the Army or an Admiral of the Navy? Is not the dignity of the Chief Justice of a court we are proud to term the greatest judicial tribunal in all civilization as great, and does he not deserve as high pay, at least, as the Lieutenant-General of the Army? Circuit judges throughout the United States to-day get less pay than major-generals. District judges get less pay than brigadier-generals in the Army.

Mr. COOMBS. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield?

Mr. CRUMPACKER. Yes.

Mr. COOMBS. The gentleman has mentioned the salaries of the circuit judges which, I believe, are now $6,000 a year.

Mr. CRUMPACKER. Yes.

Mr. COOMBS. There is an increase of $1,000, but considering one of the amendments in this bill, that striking out expenses, has the gentleman ever considered the question as to whether this is an actual reduction of salary so far as it pertains to the judges of the circuit courts in California and other districts of the United States?

Mr. CRUMPACKER. I have. I have thought about that aspect of the question, and yet I think it is a wise thing to do.

Mr. COOMBS. A wise thing to reduce the salaries when the bill proposes to increase them?

Mr. CRUMPACKER. I think it a wise provision, because judges are human, and if a judge could go away from home to sit as a member of the court of appeals and get $10 a day extra compensation, he may be inclined to be away as much as possible. That is the reason for the amendment, I understand.

[Here the hammer fell.]

Mr. JENKINS. Mr. Speaker, I yield three minutes to the gentleman from Pennsylvania, Mr. GRAHAM.

Mr. GRAHAM. Mr. Speaker, I am not a member of the bar, but I look at this question from the point of view as a business man. As a business man I realize that our judges are poorly paid. I realize to-day that unless a judge of the United States court has some means outside of his salary, he is unable to keep up the position and maintain the dignity and expenses attendant upon his office. So true has this proved in my own State that in two cases the judges of the district court of the United States in my county have been compelled to resign and resume their avocation as lawyers, by which they can make more money than as judges.

Mr. BARTLETT. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield?

Mr. GRAHAM. Yes.

Mr. BARTLETT. Will the gentleman tell us how many judges of the Supreme Court, since the foundation of the Government, have resigned their office?

Mr. GRAHAM. I am not speaking of the judges of the Supreme Court. If the gentleman will give attention to what I am saying, he will see that I am talking about the judges of the district and circuit courts. I claim that they are not well paid, that they will not be sufficiently paid even under this bill, for the reason that while the salary is increased $1,000 at the same time they will be compelled to pay their own expenses. The judges of the circuit court in my district are compelled to travel from three to five hundred miles, to another section of the State, and there hold court for two or three months.

Under this bill they would be compelled to pay their expenses while there, so that the increase as proposed here is very slight in the case of judges in our section. While the bill increases the salaries $1,000, they will undoubtedly have to pay from three hundred to four hundred dollars of that increase out for expenses now allowed by law. I think this is cheeseparing. I do not think it is a proper spirit in which to take up a matter of this kind. I am surprised at the arguments made by some of the gentlemen on the floor of this House. I am surprised at the gentleman from New York [Mr. DRISCOLL] stating that he would put this bill on a par with the raising of the salaries of clerks and other appointees of the Government; that a man no sooner came into office than he began to lobby for an increase of salary. He also stated that he believed lobbyists had been working for the passage of this bill.

I would ask the gentleman whether any members of the United States Supreme Court, or any of the United States courts, have lobbied for this bill? Have any of them written to him or to any other member favoring this bill? I can say, as far as I am concerned, that I have had no member of the courts lobby with me, nor do I believe with any other members.

[Here the hammer fell.]

Mr. JENKINS. Mr. Speaker, I yield seven minutes to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Speaker, I think the members of the House are very much indebted to the gentleman from Alabama [Mr. UNDERWOOD], whose speech I wish could have been longer, for his clear and lucid exposition of the proper position of a judge of a United States court, and especially of the Supreme Court. Such a judge ought to occupy a position which any lawyer would be willing to take. When I say any lawyer I do not mean those who look merely at money, but any lawyer of the first rank who expects to live like a gentleman in his profession.

At the beginning of the Government these judges received $3,500 and $4,000 a year. I appeal to any member of this House whether $3,500 at that time was not more than $20,000 at the present time, considered as a standard of income.

Mr. Speaker, I remember seeing quite a number of old account books of lawyers about the years 1836 to 1840, and in those account books I found such items as this: "Received $5 for retainer for suit in the Supreme Court by A. B. against C. D."

The retainer now for the same suit would be at the least $100. The scale of living has changed. Men have to live differently from the way that our forefathers did, and any man who knows anything about practice at the bar at the present time knows that for a man without a fortune laid by, who has a first rate practice and who has proved his ability at the bar, it is impossible without great sacrifice to take a place even upon the United States bench.

The gentleman from Georgia [Mr. BARTLETT] asked whether any Supreme Court justice had ever resigned. Yes; Benjamin Robbins Curtis, one of the first lawyers of the land, a man who did not love money, who lived plainly, who lived simply, felt compelled to resign in order to support and educate his family. From other courts many judges have resigned. There was Judge Dillon, the author of "Dillon on Corporations," a man who loved the law, who resigned from the circuit court because he only received $6,000 a year and could not afford to remain there. Judge McCrary, who was well known, and Judge Lowell, of Massachusetts, a man who, perhaps, did not resign so much for that reason——

Mr. BARTLETT. Those are circuit judges.

Mr. PARKER. Those are circuit judges. Now, I ask anyone, whether those who live with real comfort, even on the bench of the Supreme Court of the United States, are not men who have some independent fortune, and whether some of the judges that we know upon that bench, who have never come near us to

complain, are not, perhaps, living with difficulty, without the freedom of entertainment that is befitting their high position?

Mr. BARTLETT. May I interrupt the gentleman for a moment?

Mr. PARKER. I have only a few minutes, but if it is a short question I will yield.

Mr. BARTLETT. I was going to ask the gentleman how many you ever knew to refuse the appointment to the Supreme Court bench on account of the smallness of the salary?

Mr. PARKER. I have known men to refuse to consider it.

Mr. BARTLETT. The position of judge of the Supreme Court?

Mr. PARKER. Yes.

Mr. BARTLETT. I should like to have the gentleman mention the name of one.

Mr. PARKER. There are men whose names can be given in private. Men do not like to state publicly that they can not afford to take such an honorable position.

Now, when you look at England, the great mother of our common law, she pays to her law chancellor $50,000 a year; to her master of the rolls, $30,000; to her chief justice of her supreme court, $40,000; to the associate justices of that court, $25,000. She gets the first lawyers of the land as judges in those courts. Now, it is essential to the dignity of a court in the eyes of the public that the judges should be able to live with entire independence and be known to be able to live upon their salaries. We want justice cheap to the people in the way of costs, but we do not want cheap justice. We do not want cheap law, we do not want cheap brains. You can not get brains and power and energy upon the benches of your courts unless you pay the judges reasonable salaries.

Now, this bill is only too conservative. It is carefully drawn. It raises the salary of the Supreme Court as fixed in 1873 but one-quarter. It raises the salaries appointed long ago for the circuit judges but one-sixth. It raises the salaries appointed for the district judges one-fifth. Since the beginning the business of the courts has increased enormously. The first ten years the Supreme Court docket had 20 cases a year reported. Up to 1850 it had less than 50 cases a year reported. In 1890 there were between 400 and 500 disposed of annually.

The SPEAKER. The time of the gentleman has expired. General debate has expired, and the Clerk will read the bill.

The Clerk read as follows:

To the Chief Justice of the Supreme Court of the United States the sum of $13,000 a year, and to each of the associate justices thereof the sum of $12,500 a year.

Mr. BOREING. Mr. Speaker, I desire to offer an amendment.

The SPEAKER. The Clerk had not reached the point where the gentleman desires to offer his amendment.

Mr. CANNON. Mr. Speaker——

The Clerk read as follows:

To each of the circuit judges the sum of $7,500 a year.

The amendment of the committee was read, as follows:

In line 11 strike out the words "five hundred dollars."

The SPEAKER. Does the gentleman from Illinois have anything to offer?

Mr. CANNON. I want to offer a formal amendment. I move to strike out the last word.

The SPEAKER. The Chair will first submit the question on the committee amendment.

The question was taken; and the amendment of the committee was agreed to.

The Clerk read as follows:

To each of the district judges the sum of $6,250 a year.

The amendment recommended by the committee was read, as follows:

In line 13, strike out the words "two hundred and fifty."

The SPEAKER. The question is on agreeing to the committee amendment.

The question was taken; and the amendment was agreed to.

The SPEAKER. The Clerk will now report the amendment of the gentleman from Kentucky.

The Clerk read as follows:

Amend by inserting after line 13 the following:
"To the judge of Porto Rico, $6,000."

Mr. JENKINS. Mr. Speaker, I raise the point of order against that amendment.

The SPEAKER. The gentleman will state his point of order.

Mr. JENKINS. This bill relates wholly to the salaries of judges of the courts of the United States proper, and is not extended to any Territories or insular possessions, and is not germane.

Mr. BOREING. Is not all this a change of existing law?

The SPEAKER. The Chair would like to hear the gentleman. The Chair is not advised whether the judges of Porto Rico are paid out of the public Treasury.

Mr. JENKINS. The judges of Porto Rico are paid out of the public Treasury; but this bill does not extend to the Territories of the United States or any of our insular possessions. It relates exclusively to the judges of the courts of the United States proper.

The SPEAKER. Can the gentleman state whether it comes out of any part of the United States funds? Who appoints the judges of Porto Rico? The Chair has no information.

Mr. BOREING. The President of the United States.

Mr. JENKINS. There is no question but what the judges of Porto Rico are appointed in the same manner, by the same authority, and paid just exactly as the judges of the courts of the United States. But they are not judges of the courts of the United States. This bill is limited exclusively to judges of the courts of the United States.

The SPEAKER. The Chair would be glad to hear the gentleman from Kentucky on the point of order, if he desires.

Mr. BOREING. Mr. Speaker, it seems to me, since these judges are appointed by the same authority and paid out of the same treasury, that the point of order is entirely technical. If I may be permitted to state, the position is filled by ex-Chief Justice Holt, of Kentucky, one of the ablest lawyers and most capable men in our State. He was appointed by President McKinley, and asked to go down to Porto Rico and take this position. He has established the courts there successfully; his duties have been onerous, his services have been faithful, and he informs me that his compensation is inadequate. If there is a necessity for an increase in the salary upon the part of the judges of the Supreme Court, and upon the part of the judges of the district and circuit courts of the United States, it extends all the more to this position. Judge Holt is capable of filling any of the positions provided for in this bill. It strikes me that the amendment is germane and its adoption eminently proper.

The SPEAKER. The Chair calls the attention of the gentleman from Wisconsin to the fact that the judges of the District of Columbia are incorporated in this bill. It seems that these Porto Ricans are appointed by the President of the United States. The provision has broadened out now from the Federal judges for the States to the judges for the District of Columbia.

Mr. JENKINS. Mr. Speaker, I have no pride of opinion so far as the point of order is concerned; but I would like to suggest to the Chair that there is a substantial difference between the judges of Porto Rico and our insular possessions and the judges of the circuit court and the supreme court of the District of Columbia. The judges of the courts of the District of Columbia are appointed for life. The judges of Porto Rico are appointed temporarily, so to speak.

The SPEAKER. The Chair is not entirely satisfied, but is inclined to hold, and will so hold, that the point of order is not well taken. The Clerk will report the amendment of the gentleman from Kentucky.

The Clerk read as follows:

Amend by inserting, after line 13, "The judge in Porto Rico, $6,000."

Mr. JENKINS. Now, Mr. Speaker, I want to say, so far as this amendment is concerned, that no judge in Porto Rico has ever approached the committee directly or indirectly in reference to the increase of their salaries.

Mr. BOREING. Mr. Speaker, will the gentleman permit me?

Mr. JENKINS (continuing). No department of this government has approached the Judiciary Committee that has had this bill under consideration for many, many months——

Mr. BOREING. Will the gentleman permit me?

Mr. JENKINS (continuing). With reference to increasing the salary of these judges.

Mr. MADDOX. Will the gentleman allow me to ask him a question?

The SPEAKER. Does the gentleman yield to the gentleman from Georgia?

Mr. JENKINS. No one has appeared before the Committee on the Judiciary in this matter when it was considering this question. I will yield to the gentleman from Georgia.

Mr. MADDOX. Have any of the other judges you are providing for approached the committee?

Mr. JENKINS. No, sir. I want to say that no judge, high or low, has approached me, and I want to say to the gentleman from Georgia that there is a vast difference between the two propositions. Here is a bill introduced openly and notoriously in this House and thoroughly considered, first by a subcommittee and then by the full committee, and both of these committees consulted the proper department of Government with reference to this question and thoroughly examined the question to determine whether or not the salaries of the gentlemen named in the bill should be increased or not.

We spent not one day, but many days, considering every single detail and we heard gentlemen interested in the matter both pro and con, and I want to say to the credit of the judiciary of this country that as far as I am concerned not one of them has approached

me, directly or indirectly, although I have had the pleasure of meeting many of them since the bill was introduced. The question we are talking about in this bill has been thoroughly considered. If the committee had had an opportunity to ascertain what salaries the judges in Porto Rico get, or whether they have got any complaint to make as to whether their salary is too large or too small, that would be one thing; but we have had no opportunity to consider these questions, and hence I think the House is in duty bound to vote down this amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Kentucky [Mr. BOREING].

The question was taken, and on a division (demanded by Mr. BOREING) there were 4 ayes and 73 noes.

So the amendment was lost.

Mr. CANNON. Mr. Speaker, I move to strike out the last word. I would like the attention of the committee for a few moments. Perhaps twenty years ago or ten years ago I should not have voted for this bill. I think I would have been wrong then, and in voting for the bill now I think I am right. All gentlemen understand the organization of our Government. The executive, the legislative, and the judicial departments; the judicial is the third estate, or, as lawyers sometimes say, it has the last guess, performing a great duty in the Republic. It is not an expensive body. I had the curiosity to go to the legislative bill to find out what the salaries of the judiciary aggregate in the United States. I was surprised at the small aggregate—$700,000 a year; that is for a coordinate branch of the Government so far as the judicial salaries are concerned. And while I was looking I found that over here the Library of Congress alone, saying nothing about the housing of it, costs one-half a million of dollars a year, very largely for salaries.

Now, I am not abusing the Library of Congress, but what does this bill do? It increases by 25 per cent the salaries of the judiciary all over the United States, that branch of the Government which holds the balances even and determines what the law is and enforces it. This bill costs $170,000 a year for this whole service in addition to what it now costs, $700,000.

Somebody once said if a man doesn't want an office he can resign. Yes; that applies to members of Congress and to everybody; but after all it is easy to say it, and I have seen the time when I thought it was cheap to say it. What the country wants with a judiciary is an honest judiciary. I think it is our glory that we have got it, and what we need at this time, with our rapid development and expenditures of the Government, every year amounting in round numbers to $700,000,000, with the rapid development everywhere, on farm and in factory, on land and on sea, with new questions arising, we want the judiciary strengthened rather than weakened.

I am one of those who believe that in the enforcement of the law given by the judiciary now and in the future the Republic is to receive great protection; it is the bulwark of our civilization and preservation. So that while $10,000 is a large sum, I can find you great multitudes who think the salary I get of $5,000 is a large sum. Three thousand dollars is a large sum, and yet all of us understand that members of a court—and lawyers in one sense are members of the court—we all know that lawyers in one case sometimes will receive fees amounting to more than the judge receives during his whole lifetime. I believe that every judge of the Federal courts should not be paid an extravagant sum, but I believe that he should have enough to support him and support his family, living as an American citizen ordinarily lives and as do those with whom he meets and associates. And for one I shall take great pleasure in voting to increase this salary list of $700,000 for all of the judges in the United States courts by 25 per cent, which would amount to $175,000.

Now, one further thing. I have heard many gentlemen say here, Why not increase our own salaries—they are too little? Well, a reply could be made, that you do not have to occupy the place; that is no argument. They are too small. I am quite willing, looking to the future, on an apt bill, to vote an increase of salary to members of Congress. I believe they ought to be increased, because every gentleman here knows, while his constituents may not know, that our salary is all gone by the time the term closes, cutting the cloth as closely as we can to meet legitimate expenses. But we will meet that when we come to it. The salary of the President is $50,000, and ought to be. I trust and believe that this House will pass the bill. [Loud applause.]

[Here the hammer fell.]

The SPEAKER. The Clerk will read the next paragraph of the bill.

The Clerk read as follows:

To the chief justice of the Court of Claims the sum of $6,125 a year, and to each of the associate justices thereof the sum of $5,625 a year.

The amendments reported by the committee were read, as follows:

In line 1, of page 2, strike out "one" and insert "five," and after the word "hundred" strike out "and twenty-five."

In line 2 strike out "associate justices" and insert "other judges."

In line 3 strike out "five thousand six hundred and twenty-five" and insert "six thousand."

The amendments were agreed to.

The next paragraph of the bill was read, as follows:

To the chief justice of the court of appeals of the District of Columbia the sum of $8,000 a year, and to each of the associate justices thereof the sum of $7,500 a year.

The amendments reported by the committee were read, as follows:

In line 6, page 2, strike out "eight thousand" and insert "six thousand five hundred," and in line 8 strike out "seven thousand five hundred" and insert "six thousand."

Mr. PEARRE. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 6, page 2, strike out, after the word "of," the word "six" and substitute therefor the word "seven."

The SPEAKER. This is an amendment to the amendments of the committee. The question is on the amendment of the gentleman from Maryland.

The question being taken, the amendment of Mr. PEARRE was rejected.

The amendments of the committee were then agreed to.

Mr. KLEBERG. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 6, page 2, after the word "of," strike out "six thousand five hundred" and insert "seven thousand;" and in line 8, on page 2, after the word "thousand," insert "five."

Mr. JENKINS. I reserve a point of order on that amendment.

The SPEAKER. The first part of this amendment has already been voted upon, on the motion of the gentleman from Maryland, and rejected. The last part of the proposition is embraced in the amendments of the committee. The Clerk will report the next paragraph.

The Clerk read as follows:

To the chief justice of the supreme court of the District of Columbia the sum of $6,750 a year, and to each of the associate justices thereof the sum of $6,250 a year.

Mr. COWHERD, I move to amend the paragraph just read by striking out the word "six," in line 12, and inserting "five." I will say to the chairman of the committee that I am in favor generally of this bill, but it does seem to me that it is hardly proper to put the nisi prius judges here in the District of Columbia (and there are some five or six of them, as I remember, on this bench), doing business for a small territory containing only 278,000 people, upon a level with the district judges of the United States, whose jurisdiction may extend over an entire State, and very frequently does extend over half a State, containing a million of people, and whose business far exceeds in importance and magnitude the business of these judges of the District of Columbia. It does seem to me there ought to be some distinction made in these salaries and some harmony maintained in this legislation; therefore I offer this amendment.

The question being taken, the amendment of Mr. COWHERD was rejected; there being—ayes 55, noes 64.

The question being then taken, the amendments of the committee were agreed to.

The Clerk read as follows:

That after the passage of this act no payment shall be made to any of the judges mentioned in this act for expenses.

Mr. OLMSTED. Mr. Speaker, I move to strike out the paragraph just read. I am as much in favor of economy as anybody, but there is such a thing (to use a homely expression) as "saving at the spigot and losing at the bung." I believe this to be a case of that kind. If I am correctly informed, the principal expense which would be cut out by the adoption of this paragraph is the expense of a judge holding court in a district other than his own; I believe that the loss to the United States Treasury by the adoption of this paragraph would be more than the gain. It is impossible to so district any State that there shall be just as much work in one district as in another.

In my own State we have three districts. One of them is a comparatively new one. The court is just fairly started and is not overburdened with work, while in two other districts there is more work than the judges can do. A short time ago the judge of the western district of Pennsylvania called in the very excellent judge from the middle district, who helped him hold a week of court. They both sat, one in one court room and one in the other, both drawing juries from the same panel. The expense of calling that judge into that district to hold that court was probably sixty or seventy dollars. Had he not gone, another term of court would have been necessary, another panel of jurors, with mileage, jury fees, etc. My colleague [Mr. GRAHAM], who lives in that district, tells me that the clerk of the court estimated that

in jury fees and expenses alone the Government saved at least $1,000.

I believe that holds good everywhere. It is a loss to the Government. It is a loss to suitors. It is a delay of justice very often if a judge can not call in a judge from another court, who at the time may not be overburdened with business, to help him out when he has more than he can do, or when he is ill, as the district judge in Philadelphia now is or has recently been. No judge would feel like going out of his own district to hold court at his own expense. The law does not give him extra pay for that extra service, but he ought to be reimbursed for his actual and reasonable expenses.

The salaries paid are not large enough to warrant Federal judges in going out of their own districts at their own expense, and of course they would not go should this bill become a law with this paragraph in its present form. Some gentleman asked whether a Federal judge had ever been known to resign. I will tell him that the present able judges of both the western and eastern districts of Pennsylvania hold their present seats upon the bench by apointment to fill vacancies caused by the resignations of their immediate predecessors. The late judge from the western district now makes at the bar, I doubt not, ten times the amount of the salary he received while judge. My amendment, however, does not deal with salaries, but with expenses, and I hope that it may be adopted.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. SMITH of Kentucky) there were—ayes 80, noes 69.

So the motion was agreed to.

Mr. RANDELL of Texas. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Insert after line 15, on page 2, the following:
"That it shall be unlawful for any of the judges of United States courts to accept or receive any gifts, free transportation, or frank from any corporation or person engaged in operating any railroad, steamboat line, express or telegraph company. Any violation of this provision shall be punished by a fine not less than $100 and not exceeding $5,000."

Mr. JENKINS. Mr. Speaker, I make the point of order against that amendment that it is not germane. This is a bill to regulate the salaries of judges of the courts of the United States, and it seems to me that it would be casting an imputation upon those honorable gentlemen to even consider this matter seriously.

The SPEAKER. The Chair will hear from the gentleman from Texas, if he desires to be heard on the point of order.

Mr. RANDELL of Texas. Mr. Speaker, the point of order, as I understand it, is that this amendment is not germane. It follows a section (which has been striken out) which read that after the passage of this act no payment shall be made to any of the judges mentioned in this act for expenses. That section being stricken out, the law will remain as it is at present, Mr. Speaker, and the expenses of the judges of the Federal courts will be paid as provided by existing law—per diem and traveling expenses.

We are legislating squarely on the proposition of compensation and expenses. We propose to pay these judges their salaries, mileage, and expenses and per diem, and I do not believe their mileage should be added to their salaries. If they ride on passes they pocket the amount tickets would cost. We should pay them what salary is just, and further pay their necessary expenses, and they should receive no gift or compensation from others. How can we legislate as to their expenses and mileage and then conclude we can not in the same connection require them to procure transportation with the money we give? In other words, I believe it is germane, because it has the effect upon the legislation that we are considering that the pay of these officers shall be received by them from the people, and that they shall receive nothing from anybody else.

No man can serve two masters. If they receive a certain compensation by reason of their official position and an additional amount for expenses, why is it not germane for us to say they shall not receive from anybody else anything in reference to expenses? If they receive gifts, passes, and franks, then it is a matter of favor from the corporations or persons giving them and amounts to an increase in the salaries of our judges. No man, corporation, or set of men should be allowed to increase the salary of any of our officers. It is for the purpose of relieving the judiciary from the embarrassment of refusing or receiving favors and passes from corporations that I offer this amendment. It seems to me it is clearly germane to the subject under consideration, to wit: "What salary and allowance for expenses shall our judiciary receive?"

The SPEAKER. This question is one that troubles the Chair a little, but when we consider that this bill deals not only with salaries but also with the subject of expenses, the issuing of passes, franks, and other things that keep down the expenses would seem to be germane. At all events, the Chair will overrule the point of order and admit the amendment of the gentleman from Texas.

Mr. BABCOCK. I wish to offer an amendment to the amendment of the gentleman from Texas. After the word "judges" I offer to amend by inserting the words "members of Congress."

Mr. RANDELL of Texas. That amendment is accepted by me.

Mr. MANN. Mr. Speaker, upon that amendment I raise the point of order that it is not germane.

The SPEAKER. The Chair sustains the point of order. This is not a bill to regulate the salaries of members of Congress. The question is on the amendment offered by the gentleman from Texas [Mr. RANDELL].

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. RANDELL of Texas. Division!

The House divided; and there were—ayes 69, noes 88.

Mr. RANDELL of Texas. Mr. Speaker, I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 87, nays 114, answered present 11, not voting 141, as follows:

YEAS—87.

Allen, Ky.	Feely,	Lester,	Sheppard,
Aplin,	Fleming,	Lever,	Sims,
Bartlett,	Flood,	Lewis, Ga.	Smith, Ky.
Bell,	Fox,	Lewis, Pa.	Smith, H. C.
Benton,	Gaines, Tenn.	Lloyd,	Smith, S. W.
Billmeyer,	Gibson,	McLain,	Snook,
Brick,	Gilbert,	Maddox,	Sparkman,
Brundidge,	Gillett, Mass.	Mahoney,	Spight,
Burleson,	Glenn,	Marshall,	Stark,
Burton,	Goldfogle,	Miers, Ind.	Stephens, Tex.
Candler,	Gordon,	Mutchler,	Stewart, N. J.
Cassingham,	Green, Pa.	Pou,	Talbert,
Clark,	Haugen,	Randell, Tex.	Tate,
Cochran,	Henry, Tex.	Rhea,	Thayer,
Cooney,	Hooker,	Rixey,	Thomas, N. C.
Cooper, Wis.	Howard,	Robinson, Ind.	Trimble,
Cowherd,	Johnson,	Robinson, Nebr.	Underwood,
Darragh,	Kehoe,	Rucker,	Vandiver,
De Armond,	Kitchin, Claude	Ruppert,	White,
Dinsmore,	Kitchin, Wm. W.	Russell,	Williams, Ill.
Dougherty,	Kluttz,	Scarborough,	Zenor.
Driscoll,	Latimer,	Shallenberger,	

NAYS—114.

Acheson,	Deemer,	Lamb,	Reeder,
Adams,	Dovener,	Landis,	Reeves,
Adamson,	Draper,	Lawrence,	Richardson, Ala.
Alexander,	Esch,	Lindsay,	Ryan,
Allen, Me.	Evans,	Loudenslager,	Shelden,
Babcock,	Fitzgerald,	McCleary,	Showalter,
Ball, Del.	Flanagan,	McClellan,	Sibley,
Ball, Tex.	Fletcher,	McLachlan,	Smith, Iowa
Bankhead,	Foerderer,	McRae,	Smith, Wm. Alden,
Bartholdt,	Foster, Vt.	Mahon,	Snodgrass,
Bates,	Gardner, Mass.	Martin,	Stevens, Minn.
Bellamy,	Glass,	Mercer,	Stewart, N. Y.
Brandegee,	Graff,	Meyer, La.	Sutherland,
Bromwell,	Graham,	Mickey,	Swann,
Brown,	Grosvenor,	Moody, Oreg.	Taylor, Ala.
Burke, S. Dak.	Hanbury,	Morgan,	Thomas, Iowa
Burkett,	Haskins,	Mudd,	Tirrell,
Burleigh,	Heatwole,	Olmsted,	Tompkins, N. Y.
Butler, Pa.	Hedge,	Overstreet,	Tompkins, Ohio
Cannon,	Hemenway,	Padgett,	Van Voorhis,
Capron,	Henry, Conn.	Palmer,	Wanger,
Clayton,	Hepburn,	Parker,	Warner.
Cromer,	Hill,	Patterson, Pa.	Warnock,
Crowley,	Holliday,	Patterson, Tenn.	Weeks,
Crumpacker,	Hull,	Payne,	Wiley,
Currier,	Jenkins,	Perkins,	Williams, Miss.
Cushman,	Jones, Wash.	Powers, Me.	Wright.
Dalzell,	Kleberg,	Powers, Mass.	
Dayton,	Kyle,	Ransdell, La.	

ANSWERED "PRESENT"—11.

Barney,	Coombs,	Loud,	Sperry,
Boreing,	Finley,	Mann,	Wheeler.
Boutell,	Jackson, Kans.	Moon,	

NOT VOTING—141.

Beidler,	Cooper, Tex.	Gillet, N. Y.	Knox,
Belmont,	Corliss,	Gooch,	Lacey,
Bingham,	Cousins,	Greene, Mass.	Lassiter,
Bishop,	Creamer,	Griffith,	Lessler,
Blackburn,	Curtis,	Griggs,	Littauer,
Blakeney,	Dahle,	Grow,	Little,
Bowerscck,	Davey, La.	Hamilton,	Littlefield,
Bowie,	Davidson,	Hay,	Livingston,
Brantley,	Davis, Fla.	Henry, Miss.	Long,
Breazeale,	Dick,	Hildebrant,	Lovering,
Bristow,	Douglas,	Hitt,	McAndrews,
Broussard,	Dwight,	Hopkins,	McCall,
Brownlow,	Eddy,	Howell,	McCulloch,
Bull,	Edwards,	Hughes,	McDermott,
Burgess,	Elliott,	Irwin,	Maynard,
Burk, Pa.	Emerson,	Jack,	Metcalf,
Burnett,	Fordney,	Jackson, Md.	Miller,
Butler, Mo.	Foss,	Jett,	Minor,
Calderhead,	Foster, Ill.	Jones, Va.	Mondell,
Caldwell,	Fowler,	Joy,	Moody, N. C.
Cassel,	Gaines, W. Va.	Kahn,	Morrell,
Connell,	Gardner, Mich.	Kern,	Morris,
Conner,	Gardner, N. J.	Ketcham,	Moss,
Conry,	Gill,	Knapp,	Naphen,

Needham,	Robb,	Slayden,	Thompson,
Neville,	Roberts,	Small,	Vreeland,
Nevin,	Robertson, La.	Smith, Ill.	Wachter,
Newlands,	Rumple,	Southard,	Wadsworth,
Norton,	Schirm,	Southwick,	Watson,
Otjen,	Scott,	Steele,	Wilson,
Pearre,	Selby,	Storm,	Woods,
Pierce,	Shackleford,	Sulloway,	Wooten,
Prince,	Shafroth,	Sulzer,	Young.
Pugsley,	Shattuc,	Swanson,	
Reid,	Sherman,	Tawney,	
Richardson, Tenn.	Skiles,	Tayler, Ohio	

So the amendment was rejected.

The Clerk announced the following pairs:

For the session:

Mr. BROWNLOW with Mr. PIERCE.

Mr. KAHN with Mr. BELMONT.

Mr. COOMBS with Mr. DAVEY of Louisiana.

Until further notice:

Mr. BOWERSOCK with Mr. BURNETT.

Mr. METCALF with Mr. WHEELER.

Mr. LONG with Mr. NEWLANDS.

Mr. HOPKINS with Mr. SWANSON.

Mr. BARNEY with Mr. THOMPSON.

Mr. SOUTHARD with Mr. NORTON.

Mr. DAVIDSON with Mr. SELBY.

Mr. BOUTELL with Mr. GRIGGS.

For one week:

Mr. SCOTT with Mr. JACKSON of Kansas.

For balance of week:

Mr. STORM with Mr. PUGSLEY.

Until Wednesday:

Mr. PRINCE with Mr. CALDWELL.

For this day:

Mr. SKILES with Mr. GOOCH.

Mr. SOUTHWICK with Mr. LASSITER.

Mr. LITTLEFIELD with Mr. KERN.

Mr. BULL with Mr. BROUSSARD.

Mr. STEELE with Mr. COOPER of Texas.

Mr. DICK with Mr. BURGESS.

Mr. COUSINS with Mr. CREAMER.

Mr. TAWNEY with Mr. RICHARDSON of Tennessee.

Mr. MORRIS with Mr. BOWIE.

Mr. FORDNEY with Mr. CONRY.

Mr. EMERSON with Mr. MOON.

Mr. JOY with Mr. HENRY of Mississippi.

Mr. GILL with Mr. EDWARDS.

Mr. HILDEBRANT with Mr. MAYNARD.

Mr. HITT with Mr. SHAFROTH.

Mr. VREELAND with Mr. WILSON.

Mr. WACHTER with Mr. SMALL.

Mr. CURTIS with Mr. MCANDREWS.

Mr. WATSON with Mr. MCCULLOCH.

Mr. WOODS with Mr. NEVILLE.

Mr. KETCHAM with Mr. ROBB.

Mr. NEEDHAM with Mr. GRIFFITH.

Mr. KNAPP with Mr. REID.

Mr. BINGHAM with Mr. ELLIOTT.

Mr. MORRELL with Mr. JONES of Virginia.

Mr. SPERRY with Mr. SULZER.

Mr. HAMILTON with Mr. SHACKLEFORD.

Mr. DWIGHT with Mr. SLAYDEN.

Mr. MINER with Mr. DAVIS of Florida.

Mr. GREENE of Massachusetts with Mr. MCDERMOTT.

Mr. BURK of Pennsylvania with Mr. NAPHEN.

Mr. GARDNER of Michigan with Mr. WOOTEN.

Mr. MCCALL with Mr. LIVINGSTON.

Mr. CONNELL with Mr. BUTLER of Missouri.

Mr. SCHIRM with Mr. HAY.

Mr. JACK with Mr. FINLEY.

Mr. LACEY with Mr. LITTLE.

On this vote:

Mr. SHERMAN with Mr. FOSTER of Illinois.

Mr. GROW with Mr. BREAZEALE.

Mr. BEIDLER with Mr. ROBERTSON of Louisiana.

Mr. MANN with Mr. JETT.

Mr. TAYLER of Ohio with Mr. BRANTLEY.

The result of the vote was then announced as above recorded.

The SPEAKER. The Clerk will read the next paragraph.

Mr. ROBINSON of Indiana. I offer the following amendment, after line 13, page 2.

The SPEAKER. That has been passed over, the Chair will state to the gentleman.

Mr. ROBINSON of Indiana. I inadvertently gave the wrong line.

The SPEAKER. There is no remedy for the gentleman except by unanimous consent.

Mr. ROBINSON of Indiana. I gave the wrong line. It is after line 15. That, however, may have been passed.

The SPEAKER. The Clerk will report the amendment of the gentleman from Indiana.

The Clerk read as follows:

Insert, after line 15, page 2, the following:

"That after the passage of this act no payment shall be made to any judge mentioned in this act for expenses of railroad transportation not incurred by such judge."

Mr. JENKINS. Mr. Speaker, I desire to reserve the point of order against that amendment. It is substantially the same as the amendment voted down a moment ago.

The SPEAKER. The Chair did not understand the gentleman.

Mr. JENKINS. I make the point of order that this is substantially the amendment that has just been voted down.

The SPEAKER. The Chair will overrule the point of order. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was rejected.

The SPEAKER. The Clerk will report the next paragraph.

The Clerk read as follows:

That one-half of the amount of said salaries which shall be paid to judges of the court of appeals of the District of Columbia and to judges of the supreme court of the District of Columbia shall be defrayed from the revenues of the District of Columbia.

The amendments recommended by the committee were read, as follows:

In line 19 strike out the word "judges" and insert after the word "to" the words "the chief justice and to the associate justices;" in line 21 strike out the word "judges" and insert "the chief justice and to the associate justices."

The SPEAKER. The question is on agreeing to the committee amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time.

The SPEAKER. The question is now on the passage.

Mr. SMITH of Kentucky. Mr. Speaker, I desire a yea-and-nay vote on the final passage.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 74, answered "present" 10, not voting 144; as follows:

YEAS—125.

Acheson,	Dovener,	Landis,	Robertson, La.
Alexander,	Draper,	Lawrence,	Ryan,
Allen, Me.	Esch,	Lewis, Pa.	Shelden,
Babcock,	Evans,	Lindsay,	Sibley,
Ball, Del.	Feely,	Loudenslager,	Smith, Iowa
Bankhead,	Fitzgerald,	McCleary,	Smith, H. C.
Bartholdt,	Foerderer,	McClellan,	Smith, S. W.
Bates,	Foss,	McLachlan,	Smith, Wm. Alden
Bellamy,	Foster, Vt.	Marshall,	Snodgrass,
Billmeyer,	Gardner, Mass.	Martin,	Sparkman,
Boutell,	Gibson,	Mercer,	Stevens, Minn.
Brandegee,	Gillet, N. Y.	Meyer, La.	Stewart, N. J.
Breazeale,	Gillett, Mass.	Mickey,	Stewart, N. Y.
Brick,	Glenn,	Moody, Oreg.	Sutherland,
Bromwell,	Goldfogle,	Morgan,	Swann,
Bull,	Graff,	Mudd,	Taylor, Ala.
Burke, S. Dak.	Graham,	Mutchler,	Thayer,
Burleigh,	Grosvenor,	Olmsted,	Thomas, Iowa
Burton,	Hamilton,	Otjen,	Tirrell,
Butler, Pa.	Hanbury,	Overstreet,	Tompkins, N. Y.
Cannon,	Haskins,	Palmer,	Underwood,
Capron,	Heatwole,	Parker,	Van Voorhis,
Cooper, Wis.	Hedge,	Patterson, Pa.	Wanger,
Cowherd,	Hemenway,	Patterson, Tenn.	Warner,
Cromer,	Hepburn,	Payne,	Warnock,
Crumpacker,	Hill,	Pearre,	Weeks,
Currier,	Howard,	Perkins,	Wheeler,
Cushman,	Hull,	Powers, Mass.	Wiley,
Dalzell,	Jenkins,	Ransdell, La.	Wright.
Darragh,	Jones, Wash.	Reeder,	
Dayton,	Kleberg,	Reeves,	
Deemer,	Lamb,	Richardson, Ala.	

NAYS—74.

Adamson,	Flanagan,	Lester,	Sheppard,
Allen, Ky.	Fleming,	Lever,	Sims,
Ball, Tex.	Flood,	Lewis, Ga.	Small,
Bartlett,	Fox,	Lloyd,	Smith, Ky.
Bell,	Gaines, Tenn.	McLain,	Snook,
Benton,	Gilbert,	McRae,	Spight,
Boreing,	Glass,	Maddox,	Stark,
Brundidge,	Gooch,	Mann,	Stephens, Tex.
Burkett,	Gordon,	Miers, Ind.	Talbert,
Burleson,	Henry, Conn.	Padgett,	Tate,
Candler,	Henry, Tex.	Pou,	Thomas, N. C.
Cassingham,	Holliday,	Randell, Tex.	Trimble,
Clark,	Hooker,	Reid,	Vandiver,
Clayton,	Johnson,	Robinson, Ind.	White,
Cochran,	Kehoe,	Robinson, Nebr.	Williams, Ill.
Crowley,	Kitchin, Claude	Rucker,	Williams, Miss.
De Armond,	Kitchin, Wm. W.	Russell,	Zenor.
Dougherty,	Kluttz,	Scarborough,	
Driscoll,	Latimer,	Shallenberger,	

ANSWERED "PRESENT"—10.

Coombs,	Finley,	Rhea,	Sperry.
Cooper, Tex.	Loud,	Richardson, Tenn,	
Dinsmore,	Moon,	Rixey,	

NOT VOTING—144.

Adams,	Douglas,	Ketcham,	Prince,
Aplin,	Dwight,	Knapp,	Pugsley,
Barney,	Eddy,	Knox,	Robb,
Beidler,	Edwards,	Kyle,	Roberts,
Belmont,	Elliott,	Lacey,	Rumple,
Bingham,	Emerson,	Lassiter,	Ruppert,
Bishop,	Fletcher,	Lessler,	Schirm,
Blackburn,	Fordney,	Littauer,	Scott,
Blakeney,	Foster, Ill.	Little,	Selby,
Bowersock,	Fowler,	Littlefield,	Shackleford,
Bowie,	Gaines, W. Va.	Livingston,	Shafroth,
Brantley,	Gardner, Mich.	Long,	Shattuc,
Bristow,	Gardner, N. J.	Lovering,	Sherman,
Broussard,	Gill,	McAndrews,	Showalter,
Brown,	Green, Pa.	McCall,	Skiles,
Brownlow,	Greene, Mass.	McCulloch,	Slayden,
Burgess,	Griffith,	McDermott,	Smith, Ill.
Burk, Pa	Griggs,	Mahon,	Southard,
Burnett,	Grow,	Mahoney,	Southwick,
Butler, Mo.	Haugen,	Maynard,	Steele,
Calderhead,	Hay,	Metcalf,	Storm,
Caldwell,	Henry, Miss.	Miller,	Sulloway,
Cassel,	Hildebrant,	Minor,	Sulzer,
Connell,	Hitt,	Mondell,	Swanson,
Conner,	Hopkins,	Moody, N. C.	Tawney,
Conry,	Howell,	Morrell,	Tayler, Ohio
Cooney,	Hughes,	Morris,	Thompson,
Corliss,	Irwin,	Moss,	Tompkins, Ohio
Cousins,	Jack,	Naphen,	Vreeland,
Creamer,	Jackson, Kans.	Needham,	Wachter,
Curtis,	Jackson, Md.	Neville,	Wadsworth,
Dahle,	Jett,	Nevin,	Watson,
Davey, La.	Jones, Va.	Newlands,	Wilson,
Davidson,	Joy,	Norton,	Woods,
Davis, Fla.	Kahn,	Pierce,	Wooten,
Dick,	Kern,	Powers, Me.	Young.

So the bill was passed.

The following additional pairs were announced:

Mr. EDDY with Mr. FOSTER of Illinois.

Mr. TAYLER of Ohio with Mr. RIXEY.

Mr. LITTAUER with Mr. JETT.

Mr. SHERMAN with Mr. RUPPERT.

Mr. ADAMS with Mr. DINSMORE.

Mr. RIXEY. Mr. Speaker, I voted "no;" but I find I am paired with the gentleman from Ohio, Mr. TAYLER. I therefore wish to withdraw my vote.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. RIXEY, and he answered "present," as above recorded.

The result of the vote was then announced, as above recorded.

On motion of Mr. JENKINS, a motion to reconsider the vote whereby the bill was passed was laid on the table.

TIMES AND PLACES OF HOLDING COURTS IN WEST VIRGINIA.

Mr. JENKINS. Mr. Speaker, I would like to say to the House that while we have a large number of bills that ought to be called up to-night, I am going to ask the House to indulge me on one small bill providing for a change of terms of court in West Virginia. Mr. Speaker, I now call up the bill (H. R. 16202) fixing the times and places for holding regular terms of the United States circuit and district courts in the western district of Virginia, and for other purposes.

The Clerk read the title of the bill.

Mr. JENKINS. Mr. Speaker, that bill has been considered by the Judiciary Committee and reported to the House. Since that time a Senate bill covering the same subject has come over to the House. I ask unanimous consent for the substitution of the Senate bill for the House bill.

The SPEAKER. The Chair thinks the gentleman has a right to call up a Senate bill under the order.

Mr. JENKINS. Then, Mr. Speaker, I call up the bill (S. 6595) fixing the times and places for holding regular terms of the United States circuit and district courts in the western district of Virginia, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That hereafter the circuit and district courts of the United States for the western district of Virginia shall be held each year at Danville on the Tuesday after the second Monday in April and November; at Lynchburg on the Tuesday after the second Monday in March and September; at Abingdon on the Tuesday after the first Monday in May and October; at Harrisonburg on the Tuesday after the first Monday in June and December; at Charlottesville on the second Monday in January and the first Monday in July, and at Roanoke on the second Monday in February and the third Monday in June.

SEC. 2. That the marshal for the western district of Virginia shall discharge all the duties of marshal in connection with the business of said courts at Charlottesville and Roanoke.

SEC. 3. That all acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 4. That this act shall be in force from and after its passage.

The bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. Without objection, a similar House bill will lie on the table.

There was no objection.

On motion of Mr. JENKINS, a motion to reconsider the last vote was laid on the table.

HEIRS OF AARON VAN CAMP AND VIRGINIUS P. CHAPIN.

Mr. GRAFF. Mr. Speaker, I present a conference report, to be printed under the Rules of the House.

The SPEAKER. The Clerk will read the title.

The Clerk read as follows:

A bill (S. 342) for the relief of the heirs of Aaron Van Camp and Virginius P. Chapin.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Committee on Claims to the bill S. 342, an act for the relief of the heirs of Aaron Van Camp and Virginius P. Chapin, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

1. That the Senate concur in that portion of the House amendment striking out all of the words after the word "Documents," in lines 16 and 17, page 2, down to and including the word "Government," on line 19, page 2.

2. That the House recede from all the balance of its amendment to said bill.

JOSEPH V. GRAFF,
D. J. FOSTER,
CLAUDE KITCHIN,
Managers on the part of the House.

P. J. McCUMBER,
JAS. P. TALIAFERRO,
Managers on the part of the Senate.

The statement is as follows:

The conferees on the part of the House of Representatives on the disagreeing votes of the two Houses on the amendment of the Committee on Claims to the Senate bill No. 342, entitled "An act for the relief of the heirs of Aaron Van Camp and Virginius P. Chapin," respectfully submit their conference report herewith, and submit the following statement as to the effect of the adoption of said conference report:

The bill, if passed, would refer said claim to the Court of Claims to hear and determine the question of the liability of the United States for certain losses suffered by the claimants, as alleged by them, by reason of the acts of an alleged court unlawfully formed and convened by one Jonathan S. Jenkins, as United States consul and vice-commissioner for the consulate of Apia, Navigators Islands. The facts in the case were heard and determined by the Court of Claims heretofore, and findings of fact covering exhaustively the circumstances of the case, including the losses suffered by the claimants, were made by the court, but the legal liability of the United States to the claimants was not determined.

The bill as amended by the House had stricken from it the authority for the court to consider the former proceedings by the Court of Claims had in said cause and claim, and also the authority to consider as evidence in the new hearing the authority for the court to consider as evidence documents and reports of Congressional committees. The effect of the conferees' report is to authorize the considering by the court as evidence the former proceedings of the Court of Claims in said claim, and to exclude the authority formerly given in the bill as passed by the Senate for the court to consider the documents and reports of Congressional committees.

Respectfully submitted.

JOSEPH V. GRAFF,
D. J. FOSTER,
CLAUDE KITCHIN,
Conferees of the House.

LEAVE TO EXTEND REMARKS.

Mr. JENKINS. Mr. Speaker, I desire to ask unanimous consent that all members who have addressed the House this afternoon on the bill increasing the salaries of the judges of the United States courts may be permitted, within five days, to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that all gentlemen who have addressed the House on the Federal salary bill may have five days to extend their remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 1193. An act to correct the military record of Henry M. Holmes;

H. R. 6467. An act granting an honorable discharge to Samuel Welch; and

H. R. 15711. An act to authorize the construction of a bridge across the Clinch River, in the State of Tennessee, by the Knoxville, Lafollette and Jellico Railroad Company.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 6132. An act granting an increase of pension to Fannie McHarg.

ENROLLED BILLS PRESENTED TO THE PRESIDENT OF THE UNITED STATES.

Mr. WACHTER, also from the Committee on Enrolled Bills, reported that they had presented this day to the President of the United States for his approval bills of the following titles:

H. J. Res. 16. An act to carry into effect two resolutions of the Continental Congress directing monuments to be erected to the memory of Gen. Francis Nash and William Lee Davidson, of North Carolina;

H. R. 7664. An act providing for the compulsory attendance of witnesses before registers and receivers of the Land Office;

H. R. 15066. An act to incorporate the association of military surgeons of the United States;

H. R. 2974. An act for the relief of J. V. Worley;
H. R. 6649. An act for the relief of Julius Kaiser;
H. R. 14518. An act granting an increase of pension to James D. Kiper;
H. R. 15708. An act to extend the time for the completion of the incline railway on West Mountain, Hot Springs Reservation;
H. R. 10522. An act to provide for laying a single electric street railway track across the Aqueduct Bridge, in the District of Columbia, and for other purposes;
H. R. 15510. An act to promote the efficiency of the Philippine constabulary, to establish the rank and pay of its commanding officers, and for other purposes; and
H. R. 10300. An act conferring jurisdiction upon the circuit and district courts for the district of South Dakota in certain cases, and for other purposes.

SENATE BILLS AND RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6486. An act to provide for the appropriate marking of the graves of the soldiers and sailors of the Confederate Army and Navy, and for other purposes—to the Committee on Military Affairs.

S. 6703. An act granting a pension to Henrietta V. West—to the Committee on Invalid Pensions.

S. 2974. An act granting an increase of pension to Samuel J. Boyer—to the Committee on Invalid Pensions.

Senate concurrent resolution 55:

Resolved by the Senate (the House of Representatives concurring), That 2,500 copies of the revised code of law of the District of Columbia be printed and bound; 500 copies for the use of the Senate, 1,000 for the use of the House of Representatives, and 1,000 for sale by the Superintendent of Documents—

to the Committee on Printing.

Senate concurrent resolution 57:

Resolved by the Senate (the House of Representatives concurring), That there be printed as it originally appeared in the report of the Secretary of the Interior of the United States, but with the addition of 50 full-page illustrations, 7,000 copies of the Report of the Commissioner of Education for Porto Rico, of which 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, 2,500 for the use of the Commissioner of Education of the United States, and 1,500 for the use of the commissioner of education for Porto Rico—

to the Committee on Printing.

Mr. JENKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 5 minutes p. m.) the House adjourned until to-morrow at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting, in response to an inquiry by the House, the names of national banks that have held Government deposits of a certain class, and other facts in relation thereto—to the Committee on Banking and Currency, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of appropriation for purchase of land at Cushings Island, Maine—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Supervising Architect submitting an estimate of appropriation for rental of pneumatic-tube service—to the Committee on Appropriations, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Samuel Berry against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the Secretary of the Interior, transmitting a copy of the journal of the Hawaiian senate—to the Committee on the Territories.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 16643) to authorize the Dondra Southern Railroad Company, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, to construct and maintain a bridge across the Monongahela River in the State of Pennsylvania, reported the same without amendment, accompanied by a report (No. 3388); which said bill and report were referred to the House Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 6486) to provide for the appropriate marking of the graves of the soldiers and sailors of the Confederate Army and Navy, and for other purposes, reported the same without amendment, accompanied by a report (No. 3389); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL, from the Committee on Military Affairs, to which was referred the joint resolution of the Senate (S. R. 156) dedicating to the city of Columbus, in the State of Ohio, for uses and purposes of the public streets, part of property conveyed to the United States by Robert Neil, by deed dated February 17, 1863, recorded in deed book 76, page 572, Franklin County records, reported the same without amendment, accompanied by a report (No. 3390); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBERTSON of Louisiana, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 12271) to abolish the district of the Teche, in the State of Louisiana, and to attach to and make part of the district of New Orleans the territory now comprising said district as described in act of February 25, 1873, entitled "An act to define the limits of the collection district of the Teche, in the State of Louisiana, and for other purposes," reported the same without amendment, accompanied by a report (No. 3391); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 16975) to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Eastern Railroad Company, reported the same with amendments, accompanied by a report (No. 3393); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16882) to establish a light-house depot for the Second light-house district, Boston Harbor, Massachusetts, reported the same with amendment, accompanied by a report (No. 3394); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ADAMS, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 7) authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army, reported the same with amendments, accompanied by a report (No. 3396); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GROSVENOR, from the Committee on Rules, to which was referred the resolution of the House (H. Res. 394) fixing an order for the consideration of business reported by the Committee on the Judiciary, reported the same without amendment, accompanied by a report (No. 3383); which said report was ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GRAFF, from the Committee on Claims, to which was referred the bill of the House (H. R. 17059) for the relief of Noah Dillard, reported the same without amendment, accompanied by a report (No. 3382); which said bill and report were referred to the Private Calendar.

Mr. KYLE, from the Committee on War Claims, to which was referred the bill of the House H. R. 8321, reported in lieu thereof a resolution (H. Res. 411) referring to the Court of Claims the papers in the case of John Morgan's heirs, accompanied by a report (No. 3384); which said resolution and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House H. R. 10974, reported in lieu thereof a resolution (H. Res. 412) referring to the Court of Claims the papers in the case of Julius C. Kleonne, accompanied by a report (No. 3385); which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill of the House H. R. 3639, reported in lieu thereof

a resolution (H. Res. 413) referring to the Court of Claims the papers in the case of the heirs of James M. Hinton, deceased, accompanied by a report (No. 3386); which said resolution and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on War Claims, to which was referred the bill of the House H. R. 4850, reported in lieu thereof a resolution (H. Res. 414) referring to the Court of Claims the papers in the case of the First Presbyterian Church of Knoxville, Tenn., accompanied by a report (No. 3387); which said resolution and report were referred to the Private Calendar.

Mr. CAPRON, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 6745) to remove the charge of desertion against Anthony R. Ravenscroft, reported the same with amendments, accompanied by a report (No. 3392); which said bill and report were referred to the Private Calendar.

Mr. ESCH, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 5891) to authorize the President to appoint Brig. Gen. H. C. Merriam to the grade of major-general in the United States Army and place him on the retired list, reported the same without amendment, accompanied by a report (No. 3395); which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17071) granting a pension to B. W. McCray—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17082) for the relief of Thomas Beatty—Committee on Invalid Pensions discharged, and referred to the Committee on War Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred, as follows:

By Mr. REEVES (by request): A bill (H. R. 17085) to effectuate the provisions of the additional act of the International Convention for the Protection of Industrial Property—to the Committee on Patents.

By Mr. MANN: A bill (H. R. 17086) declaring the tunnels under the Chicago River an obstruction to navigation, and for other purposes—to the Committee on Interstate and Foreign Commerce.

By Mr. RODEY: A bill (H. R. 17087) to permit the erection of drift fences on public lands in New Mexico at places where such land is not immediately needed for settlement or other purposes—to the Committee on the Public Lands.

By Mr. SHEPPARD: A bill (H. R. 17088) to create a new division of the eastern judicial district of Texas, and to provide for terms of court at Texarkana, Tex., and for a clerk for said court, and for other purposes—to the Committee on the Judiciary.

By Mr. PATTERSON of Tennessee: A bill (H. R. 17089) to regulate and control the interstate and foreign commerce of corporations, joint stock companies, and associations engaged therein—to the Committee on the Judiciary.

By Mr. HAMILTON: A bill (H. R. 17103) permitting the payment of the value of public lands to persons entitled to make entry upon such lands in certain cases—to the Committee on the Public Lands.

By Mr. SUTHERLAND: A concurrent resolution (H. C. Res. 75) authorizing the printing of 4,000 copies of Report of Irrigation Investigations in Utah by Office of Experiment Stations, Agricultural Department—to the Committee on Printing.

By Mr. JONES of Washington: A resolution (H. Res. 410) concerning a treaty signed between the United States and Great Britain, providing for a commission to interpret the treaty of 1825 between Russia and Great Britain fixing the boundaries of Alaska—to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BOREING: A bill (H. R. 17090) granting an increase of pension to James T. Price—to the Committee on Pensions.

By Mr. BRANTLEY: A bill (H. R. 17091) granting a pension to Arminta C. Wood—to the Committee on Pensions.

By Mr. BROWN: A bill (H. R. 17092) granting an increase of pension to Cyrus B. Dopp—to the Committee on Invalid Pensions.

By Mr. LITTLE: A bill (H. R. 17093) granting a pension to Caroline Schaefer—to the Committee on Invalid Pensions.

By Mr. MOODY of Oregon: A bill (H. R. 17094) granting an increase of pension to Augustus L. Kidder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17095) granting an increase of pension to Frances E. Kent—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 17096) to correct the military record of Edward W. Gobble—to the Committee on Military Affairs.

By Mr. RODEY: A bill (H. R. 17097) granting an increase of pension to Jose Francisco Chaves—to the Committee on Invalid Pensions.

By Mr. SHAFROTH: A bill (H. R. 17098) granting an increase of pension to Edwin Todenhoefer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17099) granting an increase of pension to Jerusha A. Patton—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 17100) granting a pension to Charles S. Noble—to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17101) granting an increase of pension to Joanna Glaser—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 17102) granting an increase of pension to William Clark—to the Committee on Pensions.

By Mr. KYLE, from the Committee on War Claims: A resolution (H. Res. 411) referring to the Court of Claims H. R. 8821—to the Private Calendar.

By Mr. MAHON, from the Committee on War Claims: A resolution (H. Res. 412) referring to the Court of Claims H. R. 10974—to the Private Calendar.

By Mr. SIMS, from the Committee on War Claims: A resolution (H. Res. 413) referring to the Court of Claims H. R. 3639—to the Private Calendar.

By Mr. GIBSON, from the Committee on War Claims: A resolution (H. Res. 414) referring to the Court of Claims H. R. 4850—to the Private Calendar.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Papers to accompany House bill granting a pension to Emma Pare—to the Committee on Invalid Pensions.

By Mr. BELL: Petitions of Federal Labor Union No. 1, and Trade and Labor Assembly, of Canyon City, Colo., for the repeal of the desert-land law—to the Committee on the Public Lands.

By Mr. BRANTLEY: Petition of retail druggists, Brunswick, Ga., urging the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. BURLESON: Petition of Lockhart Drug Company and other retail druggists of Lockhart, Tex., favoring House bill 178—to the Committee on Ways and Means.

By Mr. COOPER of Wisconsin: Resolutions of Carpenters and Joiners' Union No. 91, of Racine, Wis., favoring the repeal of the desert-land and homestead commutation acts—to the Committee on the Public Lands.

By Mr. DOUGHERTY: Petitions of retail druggists of Gower, Osborn, Henry, and Coffeyburg, Mo., urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. DRAPER: Petition and circular of the International Reform Bureau, in support of the anticanteen law—to the Committee on Military Affairs.

Also, resolution of Typographical Union No. 52, of Troy, N. Y., favoring the repeal of the desert-land law—to the Committee on the Public Lands.

Also, petition of Mexican Veterans' Association of the State of Missouri, asking that surviving veterans of the Mexican war and the widows of those deceased be placed on an equality with those of other wars—to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: Petition of the Druggists' Association of Salem, Mass., favoring House bill 178—to the Committee on Ways and Means.

By Mr. GRAHAM: Petition of T. C. Van Kirk and 10 other citizens of Allegheny, Pa., against the repeal of the canteen law, and in relation to the sale of liquor in immigrant stations, Government buildings, etc.—to the Committee on Alcoholic Liquor Traffic.

Also, resolution of the American Protective Tariff League, New York, in relation to reciprocity—to the Committee on Ways and Means.

By Mr. GREENE of Massachusetts: Petition of Pacific Union Church, Westport, Mass., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings, etc.—to the Committee on Alcoholic Liquor Traffic.

Also, resolutions of the Old Soldiers' Republican Club, of Vanderburg County, Ind., asking that honorably discharged soldiers

of the civil war be placed on the pension roll at $12 per month—to the Committee on Invalid Pensions.

By Mr. HASKINS: Resolution of Reed and Rattan Workers' Union, No. 8693, of Brattleboro, Vt., for the repeal of the desert-land law—to the Committee on the Public Lands.

By Mr. HILDEBRANDT: Petition of Woman's Christian Temperance Union, of Wilmington, Ohio, in favor of legislation in restraint of the liquor traffic—to the Committee on Alcoholic Liquor Traffic.

By Mr. HITT: Petition of United Brethren Church in Christ, Pine Creek Township, Ogle County, Ill., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. LINDSAY: Protest of Lebanon Lodge, No. 117, Order of B'rith Abraham, Brooklyn, N. Y., against the exclusion of Jewish immigrants at the port of New York—to the Committee on Immigration and Naturalization.

By Mr. LITTLE: Petition of retail druggists of Horatio, Ark., in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

By Mr. McCLEARY: Petition of retail druggists of Jackson County, Minn., urging the reduction of the tax on alcohol—to the Committee on Ways and Means.

Also, petition of Shoreham Lodge, No. 570, Brotherhood of Locomotive Firemen, Minneapolis, Minn., favoring the repeal of the desert-land and homestead-commutation acts—to the Committee on the Public Lands.

Also, resolutions of St. Paul Chamber of Commerce, in favor of improving the Ohio and Mississippi rivers—to the Committee on Rivers and Harbors.

Also, resolutions of St. Paul Chamber of Commerce, in favor of organizing Alaska into a Territory of the United States—to the Committee on the Territories.

Also, petition of W. M. Liggett, dean of the Minnesota Agricultural School, favoring House bill 15920—to the Committee on Interstate and Foreign Commerce.

Also, petition of Prof. Harry Snyder, of the Agricultural Experiment station of the University of Minnesota, favoring an increase of appropriation for investigation of nutrition of foods—to the Committee on Agriculture.

Also, petition of Prof. W. M. Hays, of the Agricultural Experiment station of the University of Minnesota, favoring generous treatment of the Department of Agriculture in the matter of department buildings—to the Committee on Public Buildings and Grounds.

By Mr. MERCER: Resolutions of the Stock Growers' Association, held at Alliance, Nebr., relative to the land-leasing bill—to the Committee on the Public Lands.

Also, petition of East Washington Citizens' Association relative to reclamation of the flats of the Anacostia River—to the Committee on Appropriations.

By Mr. MICKEY: Petition of Ministerial Association of Monmouth, Ill., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. MOODY: Resolution of the Board of Trade of Portland, Oreg., asking for a suitable number of submarine torpedo boats in the Columbia River between Portland and the sea—to the Committee on Naval Affairs.

Also, petitions of the Radical United Brethren Church and First United Brethren Church of Philomath, Oreg., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, resolutions of the Chamber of Commerce of Portland, Oreg., asking that the capacity of the naval school be increased—to the Committee on Naval Affairs.

By Mr. MORGAN: Papers to accompany House bill 17081, granting a pension to Mary How—to the Committee on Invalid Pensions.

Also, paper to accompany House bill 17082, for the relief of Thomas Beatty—to the Committee on Invalid Pensions.

By Mr. PADGETT: Papers to accompany bill relating to the correction of the military record of Edward W. Gobble—to the Committee on Military Affairs.

By Mr. ROBB: Petitions of J. R. Funk, Oscar Florence, G. M. Mockbee, W. T. Woolford, and other retail druggists, for the enactment of House bill 178, for reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. ROBINSON of Indiana: Petition of Wayne Division, Order of Railway Conductors, Fort Wayne, Ind., favoring the passage of Senate bill 3560—to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN: Resolutions of the National Board of Trade, Washington, D. C., favoring the passage of the bill to increase the jurisdiction and powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. SHACKLEFORD: Petition of druggists of Rocheport, Mo., in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

By Mr. SHATTUC: Paper to accompany House bill 11081, granting an increase of pension to John Morlidge—to the Committee on Invalid Pensions.

By Mr. SIBLEY: Petitions of the Woman's Christian Temperance Union of Kushequa, Pa., and citizens of Warren, Pa., in favor of an amendment to the Constitution defining legal marriage to be monogamic, etc.—to the Committee on the Judiciary.

Also, protest of citizens of Warren, Pa., against repeal of the anticanteen law—to the Committee on Military Affairs.

By Mr. SAMUEL W. SMITH: Petition of F. D. Brigham, Ortonville, Mich., in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

By Mr. WILLIAMS of Illinois: Paper to accompany House bill granting increase of pension to William Clark, a soldier in the war with Mexico—to the Committee on Pensions.

SENATE.

WEDNESDAY, *January 28, 1903.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. QUAY. I ask unanimous consent that the further reading of the Journal be dispensed with.

Mr. KEAN. I trust that will not be done, Mr. President.

The PRESIDENT pro tempore. Objection is made. The Secretary will resume the reading of the Journal.

The Secretary resumed the reading of the Journal, and after having read for ten minutes,

Mr. SCOTT. I ask unanimous consent that the further reading of the Journal be dispensed with.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The further reading is dispensed with. Without objection, the Journal will stand approved. It is approved.

PETITIONS AND MEMORIALS.

Mr. PERKINS. I present a telegram, being a joint resolution of the legislature of California, in favor of the purchase of the Nacimiento ranch for a military instruction camp. The telegram is very short, and I ask that it may be printed in the RECORD.

Mr. LODGE. I ask that it may be read.

The PRESIDENT pro tempore. The Senator from Massachusetts asks that the memorial may be read. Is there objection?

There being no objection, the memorial was read and referred to the Committee on Military Affairs, as follows:

[Telegram.]

SACRAMENTO, CAL., *January 27, 1903.*

Hon. GEORGE C. PERKINS,
Senator, Washington, D. C.:

Following is a true and correct copy of joint resolutions adopted January 23:

"Senate joint resolution No. 4, relative to an appropriation by Congress for the purchase of Nacimiento ranch for a military instruction camp.

"Whereas the Nacimiento ranch, in San Luis Obispo and Monterey counties, has been selected by the War Department for a military institution camp; and

"Whereas but one such camp has been ordered to be established on the Pacific coast: Therefore, be it

"*Resolved by the senate and assembly of the State of California jointly*, That we respectfully instruct our Senators and request our Representatives in the Congress of the United States to use all honorable means to secure such appropriation at this session of Congress.

"*Resolved*, That the secretary of the senate be directed to forward a copy of this resolution by telegraph to our Senators and Representatives in Congress."

FRANK J. BRANDON,
Secretary of Senate.

Mr. CLAPP presented a petition of Ramsey County Lodge, No. 331, Order of B'rith Abraham, of St. Paul, Minn., and a petition of Minneapolis City Lodge, No. 63, Order of B'rith Abraham, of Minneapolis, Minn., praying for the enactment of legislation to modify the methods and practice employed by the immigration officers at the port of New York; which were referred to the Committee on Immigration.

Mr. HOAR presented a petition of the city council of Salem, Mass., praying for the enactment of legislation to temporarily extend the privileges of the coasting laws to foreign steamers carrying coal between American ports; which was referred to the Committee on Commerce.

Mr. QUAY presented a petition of the Woman's Christian Temperance Union of Allegheny County, Pa., praying for the passage of the so-called immigration bill, and also for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol building and the Soldiers' Homes of the country; which was ordered to lie on the table.

Mr. FRYE presented the memorial of Benjamin S. Gratz, of Jobstown, N. J., remonstrating against the ratification of the Panama Canal treaty unless an absolute right be granted the